

**United States Circuit Court of Appeals**  
**FOR THE NINTH CIRCUIT.**

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J. KITCHEN JR. COMPANY (a Corporation),

Appellant,

VS.

ALEXANDER LEVISON,

Appellee.

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**TRANSCRIPT OF RECORD.**

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**Upon Appeal from the United States Circuit Court  
for the Northern District of California.**

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FILED  
NOV 29 1910



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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**[Names and Addresses of] Attorneys for Respective Parties.**

CHARLES E. TOWNSEND, Solicitor for Appellant,

1105 Merchants' Exchange Bldg., San Francisco, Cal.

MILLER & WHITE, Solicitors for Appellee,  
Crocker Building, San Francisco, Cal.

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*In the United States Circuit Court of Appeals for  
the Ninth Circuit.*

**IN EQUITY.**

JOHN J. KITCHEN JR. COMPANY (a Corporation),

Appellant,

vs.

A. LEVISON,

Appellee.

**Stipulation [Under Rule 23].**

It is hereby stipulated and agreed that the printing or incorporating into the Transcript of Record on Appeal of the several exhibits in this case may be dispensed with, except as to the patents introduced in evidence and Complainant's Exhibit "C."

CHAS. E. TOWNSEND,

Attorney for Appellant.

MILLER & WHITE,

Attorneys for Appellee.

Service of copy of the within stipulation admitted this 3d day of October, A. D. 1910.

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For Appellee.

[Endorsed]: No. 1900. In Equity. In the United States Circuit Court of Appeals, 9th Circuit. John J. Kitchen Jr. Co., a Corporation, Appellant, vs. A. Levison, Appellee. Stipulation. Filed Oct. 13, 1910. F. D. Monckton, Clerk.

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*In the United States Circuit Court for the Ninth Circuit, Northern District of California.*

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. CO.,

Defendant.

**Bill of Complaint.**

To the Honorable the Judges of the Circuit Court of the United States for the Ninth Circuit, Northern District of California, Sitting in Chancery: Alexander Levison, of the City and County of San Francisco, State of California, and a citizen of the State of California, complainant, brings this his bill of complaint against the J. Kitchen Jr. Co., a corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business at the City and County of San Francisco, in said State, defendant, and thereupon your orator complains and says:



1. That at all the times hereinafter mentioned your orator was and still is a resident of the City and County of San Francisco, State of California, and a citizen of said State; that at all said times defendant J. Kitchen Jr. Co. was and still is a corporation organized and existing under and by virtue of the laws of the State of California, and having its principal place of business at said City and County of San Francisco in said State.

2. That heretofore, to wit, prior to the third day of December, A. D. 1901, your orator was the original and first inventor of a certain new and useful improvement in manifold books, a more particular description of which will be found in reissued letters patent which were issued for said invention as hereinafter alleged, and to which special reference is hereby made, and which by such reference is made a part hereof; that the said improvement was a new and useful invention not known to or used by others in this country and not patented or described in any printed publication in this or any foreign country before the invention and discovery thereof by your orator, or more than two years prior to your orator's application for a patent therefor, and not in public use or on sale for more than two years prior to his application for a patent therefor, and not abandoned.

3. And your orator further shows unto your Honors that he did on the third day of December, A. D. 1901, duly and regularly make and file in the Patent Office of the United States an application in writing praying for the issuance to him of letters

patent of the United States for said invention, and that such proceedings were duly and regularly had and taken in the matter of said application that thereafter, to wit, on February 25, A. D. 1902, letters patent of the United States for said invention, numbered 694,103, bearing date February 25, 1902, were duly and regularly granted, issued and delivered by the Government of the United States to your orator, whereby there was granted and secured to him, his heirs and assigns, for the full term of seventeen years from said last named day, the sole and exclusive right, liberty and privilege to make, use and vend the said invention throughout the United States of America and the Territories thereof.

4. That said United States letters patent were issued in due form of law under the seal of the Patent Office of the United States and signed by the Commissioner of Patents of the United States, as will more fully appear from the said letters patent themselves, and that prior to the issuance of said letters patent all proceedings were had and taken which were required by law to be had and taken prior to the issuance of letters patent for new and useful inventions.

5. And your orator further shows unto your Honors that the said letters patent were inoperative by reason of a defective and insufficient specification, and that the error through which said specification was defective and insufficient arose by inadvertence, accident and mistake, and without any fraudulent or deceptive intention on the part of your orator; that within a reasonable time after the discovery of

said error and defect, to wit, on March thirteenth, A. D. 1902, your orator, for a good and lawful cause, as aforesaid, duly surrendered the said letters patent to the Commissioner of Patents of the United States, and on said last named day filed his application in the Patent Office of the United States, praying that said letters patent might be reissued for the purpose of curing and remedying said error and mistake; that such proceedings were thereafter duly and regularly had and taken in the matter of said application for reissued letters, that on July 1, A. D. 1902, the said Commissioner of Patents did cause a new patent for the same invention and in accordance with the corrected specification, and numbered 12,005, to be granted, issued and delivered by the Government of the United States to your orator, whereby there was granted and secured to him, his heirs and assigns, for the full term of seventeen years from said 25th day of February, 1902, the sole and exclusive right, liberty and privilege to make, use and vend the said invention throughout the United States of America and the territories thereof.

6. That said reissued letters patent, No. 12,005, were granted and issued in due form of law under the seal of the Patent Office of the United States, and signed by the Commissioner of Patents of the United States, as will more fully appear from said reissued letters patent themselves, which are ready in court to be produced by your orator, or a duly authenticated copy thereof.

7. That prior to the issuance of said reissued



letters patent, No. 12,005, on July 1, 1902, all proceedings were had and taken which were required to be had and taken prior to reissuing any letters patent for new and useful inventions, and ever since the issuance of said reissued letters patent your orator has been and now is the sole owner and holder of the same, together with all claims, demands and causes of action for the infringement thereof wherever and by whomsoever committed.

8. That the said invention protected by said reissued letters patent is of great value, and has been extensively practiced by your orator and your orator's licensees, and upon each and every one of the manifold books manufactured, used and sold by your orator or your orator's licensees, made in accordance with said reissued letters patent and embodying the invention thereby patented, the word "patented," together with the date and number of said reissued letters patent has been marked and stamped, thereby notifying the public of the same, and your orator further shows that ever since the issuance of said reissued letters patent, the public has and now does acquiesce in the validity of the same.

9. And your orator further shows unto your Honors that notwithstanding the premises, but well knowing the same, and without the license or consent of your orator, but contrary thereto, within six years last past, within the Northern District of California, defendant herein has made, used and sold manifold books containing and embracing the inventions described in the specification of said re-

issued letters patent, No. 12,005, and claimed and patented in and by the claims of said reissued letters patent, and has infringed, and is now infringing, upon the exclusive rights secured to your orator by virtue of said reissued letters patent, and that the manifold books so made, used and sold by the defendant were and are an infringement upon said reissued letters patent, and upon each and all of the claims thereof.

10. And your orator further shows unto your Honors that he has requested the defendant to cease and desist from its infringement aforesaid, and had hoped that the defendant would have complied with such reasonable request, but the fact is nevertheless, that said defendant has failed, neglected and refused to comply with such request, and is now making and threatens and intends to continue to make, use and sell the said manifold books containing and embracing the inventions patented in and by the said reissued letters patent, and the claims thereof, and unless restrained by this court defendant will continue to make, use and sell said manifold books, whereby your orator will suffer great and irreparable injury and damage.

11. That by reason of the premises and the unlawful acts of the defendant as aforesaid, your orator has suffered great and irreparable injury and damage, the exact amount of which is unknown, and can be ascertained only by an accounting, and the defendant has realized, as your orator is informed and believes, large gains, profits and advantages from and by reason of said infringement, the

exact amount of which is likewise unknown to your orator and can be ascertained only by an accounting.

12. That for the wrongs and injuries herein complained of, your orator has no plain, speedy or adequate remedy at law, and forasmuch as your orator is without remedy save in a court of equity where matters of this kind are properly cognizable and relievable.

To the end, therefore, that the said defendant may, if it can, show why your orator should not have the relief herein prayed, and may, according to the best and utmost of the knowledge, recollection, information and belief of its officers, but not under oath (an answer under oath being hereby waived) full, true, direct and perfect answer make to all and singular the matters and things hereinabove charged, your orator prays that the said defendant be enjoined and restrained both provisionally and perpetually by an injunction of this court from further infringing upon said reissued letters patent and be decreed to account for and pay over to your orator the gains, profits and advantages realized by it, and in addition thereto the damages sustained by your orator from and by reason of the infringement aforesaid, together with costs of court.

May it please your Honors to grant unto your orator forthwith upon the filing of this bill a writ of injunction issued out of and under the seal of this court provisionally and until the final hearing, enjoining and restraining the said defendant, J.



Kitchen Jr. Co., its agents, servants, attorneys, workmen and employees, and each of them, from making, using or selling any manifold books containing and embracing the inventions claimed and patented in and by said reissued letters patent, No. 12,005, and that upon the final hearing of this cause said provisional injunction be made perpetual, and that your orator have such other and further relief as to your Honors may seem meet and in accordance with equity and good conscience.

May it please your Honors to grant unto your orator the writ of subpoena ad respondendum issued out of and under the seal of this court directed to the defendant, J. Kitchen Jr. Co., commanding it by a day certain and under a certain penalty fixed by law to be and appear before this Honorable Court, then and there to answer this bill of complaint, and to stand to and abide by such further orders and decrees as to your Honors may seem meet in the premises.

ALEXANDER LEVISON,  
Complainant.

MILLER & WHITE,

Solicitors and of Counsel for Complainant.

[Endorsed]: Filed August 29, 1908. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

**Subpoena ad Respondendum.**

UNITED STATES OF AMERICA.

*Circuit Court of the United States, Ninth Judicial  
Circuit, Northern District of California.*

## IN EQUITY.

The President of the United States of America,  
Greeting: To J. Kitchen Jr. Co., a Corporation.

You are hereby commanded, that you be and appear in said Circuit Court of the United States aforesaid, at the courtroom in San Francisco, on the 5th day of October, A. D. 1908, to answer a Bill of Complaint exhibited against you in said court by Alexander Levison, who is a citizen of the State of California, and to do and receive what the said Court shall have considered in that behalf. And this you are not to omit, under the penalty of FIVE THOUSAND DOLLARS.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the United States, this 29th day of August, in the year of our Lord one thousand nine hundred and eight, and of our Independence the 133d.

[Seal]

SOUTHARD HOFFMAN,

Clerk.

By W. B. Maling,

Deputy Clerk.

Memorandum Pursuant to Rule 12, Rules of Practice for the Courts of Equity of the United States.

You are hereby required to enter your appearance in the above suit, on or before the first Monday



of October next, at the Clerk's office of said court, pursuant to said bill; otherwise the said bill will be taken pro confesso.

SOUTHARD HOFFMAN,

Clerk.

By W. B. Maling,

Deputy Clerk.

RETURN ON SERVICE OF WRIT.

United States of America,

Northern District of California,—ss.

I hereby certify and return that I served the annexed Subpoena in Equity on the therein named J. Kitchen Jr. Co., a corporation, by handing to and leaving an attested copy thereof with J. Kitchen, Jr., the general manager of J. Kitchen Jr. Co., a corporation, personally at San Francisco, in said District, on the 5th day of September, A. D. 1908.

C. T. ELLIOTT,

U. S. Marshal.

By Paul J. Arnerich,

Deputy.

[Endorsed]: Filed September 10, 1908. Southard Hoffman, Clerk. By J. A. Schaertzer, Deputy Clerk.

*In the United States Circuit Court for the Ninth  
Circuit, Northern District of California.*

No. 14,772.

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. CO.,

Respondent.

**Demurrer to the Bill of Complaint.**

This respondent, by protestation, not confessing or acknowledging all or any of the matters or things in said Bill of Complaint to be true, in such manner or form as the same are therein set forth and alleged, doth demur thereto, and for cause of demurrer sheweth:

I.

That said Bill of Complaint is inequitable and unjust, in that the particular claims of the patent which the complainant intends to prosecute in the case are not specified.

II.

That said Bill of Complaint is defective, in that it does not conform to the requirements of section 4883 of the Revised Statutes of the United States, for that it does not allege or show that said original patent was issued in the name of the United States of America.

III.

That said Bill of Complaint is defective, in that it does not conform to the requirements of section

4887 of the Revised Statutes of the United States, for that it does not allege that the patentee or his legal representatives or assigns had not made or filed any application for a patent in any foreign country for said alleged invention more than seven months prior to the date of either and each of said applications therefor in this country.

IV.

That the averments of said Bill are insufficient, because it is not shown that said patentee was the sole owner and holder of said original letters patent at the time the same was surrendered and application for said reissue patent was made.

V.

That the averments of said Bill are insufficient to support a cause of action, because it is not shown what constituted the inadvertence, accident or mistake whereon said application for reissue was based.

VI.

That the averments of said Bill are insufficient, because it does not appear that no new matter was introduced into said reissue application and patent.

Wherefore, and for divers other good causes of demurrer appearing on said Bill, this respondent demurs thereto; and prays the judgment of this Honorable Court, whether it shall be compelled to make further or any answer to the said Bill, and humbly prays to be hence dismissed with its reasonable costs in this behalf sustained.

CHAS. E. TOWNSEND,  
Attorney for Respondent.

I, Charles E. Townsend, attorney for the respondent herein, do hereby certify that the foregoing demurrer is, in my opinion, well founded in point of law.

CHAS. E. TOWNSEND.

State of California,

City and County of San Francisco,—ss.

John Kitchen, Jr., being first duly sworn, deposes and says that he is the president of the respondent corporation mentioned in the foregoing demurrer, and that the foregoing demurrer is not interposed for delay.

JOHN KITCHEN, Jr.

Subscribed and sworn to before me, this 30th day of October, 1908.

[Seal]

HARRY J. LASK,

Notary Public in and for the City and County of San Francisco, State of California.

Service of the within demurrer by copy admitted this 30th day of October, 1908.

MILLER & WHITE,

Attorneys for Complainant.

[Endorsed]: Filed Oct. 30, 1908. Southard Hoffman, Clerk. By W. B. Maling, Dep. Clk.

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At a stated term, to wit, the November term, A. D. 1908, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Northern District of California, held at the courtroom in the City and County of San Francisco, on Monday, the 9th day of



November, in the year of our Lord one thousand nine hundred and eight. Present: The Honorable WILLIAM C. VAN FLEET, District Judge.

No. 14,772.

ALEXANDER LEVISON

vs.

J. KITCHEN JR. CO.

**Order Overruling Demurrer.**

Defendant's demurrer to the bill of complaint herein came on this day to be heard, and was argued by counsel and submitted, and the same being fully considered, it is ordered that said demurrer be, and the same is hereby, overruled with leave to the defendant to answer within 20 days.

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*In the United States Circuit Court for the Ninth Circuit, Northern District of California.*

IN EQUITY—No. 14,772.

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. CO.,

Respondent.

**Answer to Bill of Complaint.**

To the Honorable the Judges of the Circuit Court of the United States for the Ninth Circuit, Northern District of California, Sitting in Chancery:

This respondent, now and at all times hereafter

saving and reserving to itself all and all manner of benefit of exception or otherwise that can or may be had or taken to the many errors, uncertainties and imperfections in the said Bill of Complaint contained, for answer thereto, or to so much thereof as this respondent is advised it is material or necessary for it to make answer to, answering says:

I.

Respondent denies that on or before December 3, 1901, or at any time, Alexander Levison was either the original or first or any inventor of any new or useful invention in "manifold books," either as alleged in said Bill of Complaint or otherwise, or at all; denies that the said alleged improvement was a new and useful invention; denies that it was not known to or used by others in this country; denies that it was not patented or described in any printed publication in this or any foreign country before the alleged invention and discovery of Levison for more than two years prior to Levison's alleged application for a patent therefor; denies that the said alleged improvement was not in public use or on sale for more than two years prior to Levison's alleged application for a patent therefor, and denies that the same was not abandoned.

II.

Further answering the allegations in paragraph 3 of said Bill of Complaint, wherein it is alleged that such proceedings were duly and regularly had and taken in the matter of Levison's alleged application, that on the 25th day of February, 1902, letters patent of the United States, numbered 694,103,

were granted and issued and delivered to the said Levison, respondent says that it has no information or knowledge thereof sufficient to enable it to make answer thereto, and leaves the complainant to make such proof thereof as he may deem material and necessary.

### III.

Answering the fourth paragraph of said Bill of Complaint, wherein it is alleged that prior to the issuance of said letters patent all proceedings were had and taken which were required by law to be had and taken prior to the issuance of letters patent for new and useful inventions, respondent says that it has no knowledge or information sufficient to enable it to answer the same, and leaves the complainant to make such proof thereof as he may deem material and necessary; and respondent denies that the said letters patent were issued in due form of law, and denies that they were issued under the seal of the Patent Office of the United States and signed by the Commissioner of Patents of the United States.

### IV.

Answering the fifth allegation of said Bill of Complaint, the respondent denies that said letters patent were inoperative by reason of a defective and insufficient specification; and denies that any alleged error through which said specification was alleged to be defective and insufficient arose from inadvertence, accident or mistake, and without any fraudulent or deceptive intention on the part of said Levison. Further answering the allegations in said para-



graph, wherein it is alleged that within a reasonable time after the alleged discovery of said alleged error and defect, to wit, on March 13, 1902, or at any other time, said Levison, for good and lawful cause, duly surrendered said letters patent to the Commissioner of Patents and filed his application in the Patent Office praying that said letters patent might be reissued for the purpose of curing and remedying said alleged error and mistake, and that such proceedings were thereafter duly and regularly had and taken in the matter of said application for reissued letters patent, and that the said Commissioner of Patents did cause a new patent for the same invention and in accordance with the corrected specification, and numbered 12,005, to be granted, issued and delivered by the Government of the United States to said Levison, or that there was secured to him, his heirs and assigns, for the full term of seventeen years from the said 25th day of February, 1902, or any other time, the sole and exclusive right, liberty and privilege to make, use and vend the invention throughout the United States and territories, respondent says that it has no knowledge, information or belief sufficient to enable it to answer the same, and leaves the complainant to make such proof thereof as he may deem material and necessary.

#### V.

Answering the allegations in the seventh paragraph of said Bill of Complaint, wherein it is alleged that prior to the issuance of said reissued letters patent all proceedings were had and taken which were required to be had and taken prior to



reissuing any letters patent for new and useful inventions, and that ever since the issuance of said reissued letters patent the complainant has been and now is the sole owner and holder of the same, together with all claims, demands, and causes of action for the infringement thereof, respondent says that it has no knowledge, information or belief sufficient to enable it to answer the same, and leaves the complainant to make such proof thereof as he may deem material and necessary.

#### VI.

Denies that the said invention described in said reissued letters patent is of great or any value; denies that the public now acquiesces in or has ever acquiesced in the validity of the same. Respondent further answering the allegations in the eighth paragraph of said Bill of Complaint, to the effect that the complainant or his licensees have practiced said invention, and that upon each and every one of the books made, used and sold by complainant or his licensees he has marked or stamped the word "Patented," says it has no knowledge, information or belief sufficient to enable it to answer the same, and leaves the complainant to make such proof thereof as he may deem material and necessary.

#### VII.

Answering the allegations in the ninth paragraph of said Bill of Complaint, respondent denies that it has wrongfully or unlawfully or at all, either in the State of California or elsewhere, ever made, used or sold, or that it is now making, using or selling, or that it threatens to make, use or sell, manifold books

contained and embraced, and claimed or patented in said reissued letters patent No. 12,005 sued on and described in said Bill of Complaint, and denies that it has infringed and is now infringing upon the said reissued letters patent; and respondent denies that the manifolding books it is now making, using and selling are infringements upon said reissued letters patent, or any letters patent owned or controlled by the complainant, and denies that it ever made, used or sold any manifold books which infringed said reissued letters patent.

### VIII.

And respondent further denies that it is now making and threatens or intends to make, use or sell any manifolding books containing and embracing the alleged inventions patented in and by the said reissued letters patent and the claims thereof; and denies that the complainant has suffered or will suffer any damage or injury by reason of the respondent continuing to make, use and sell its manifolding book.

### IX.

Respondent denies that the complainant has suffered great or any injury and damage by reason of any act or acts of respondent; and respondent denies that it has made or realized large or any gains or profits or advantages from making, using or selling, or operating the alleged invention or improvement described in said letters patent.

For affirmative defense respondent alleges:

1. That the said Levison was not the original or first inventor of the alleged inventions sought to be

patented in said letters patent sued on and described in said Bill of Complaint, nor of any material or substantial part or parts thereof, but that substantially the same combination of devices was, long prior to the supposed invention thereof by the said Levison, described and patented in the following letters patent of the United States, and printed publications, to wit:

- 285,794, October 2, 1883, E. J. Burwell;
- 288,048, November 6, 1883, J. H. Frink;
- 297,556, April 29, 1884, H. G. and J. B. Barlow;
- 503,918, August 22, 1893, H. F. Vaughan;
- 11,547, June 9, 1896, E. J. Perry;
- 589,372, August 31, 1897, H. P. Brown;
- 612,197, October 11, 1898, G. E. Doughty;
- 634,438, October 10, 1899, A. Abraham.

2. That the said Levison was not an original or first inventor of the invention sought to be patented in and by said letters patent sued on, nor of any material or substantial part or parts of the thing patented, but that substantially the same combination of devices was, long prior to the supposed invention or discovery thereof by the said Levison, in public use, and on sale in this country for more than two years before the said Levison's application for a patent, and that such public use of said alleged inventions was well known to the trade generally, and particularly to the following witnesses, who will be called to testify at the trial on behalf of respondent, to wit: Harry J. Stratford, W. R. Delzelle, James McNutt, Robert J. Loughery, James E. Agar, and John Kitchen, Jr., all of the City and County of



San Francisco; and Horace P. Brown and Clarence L. Johnston, of Emeryville, Alameda County, California.

3. That the original patent, No. 694,103, was surrendered and reissued by said Levison in the absence of every statutory foundation thereof.

Without this, that any other matter, cause or thing in said Bill of Complaint contained, and not herein and hereby well and sufficiently answered unto, traversed and denied, confessed or avoided, is true; all of which matters and things this respondent is ready to aver, maintain and prove, as this Honorable Court shall direct, and begs to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

[Seal]

JOHN KITCHEN JR. CO.,

By JOHN KITCHEN, Jr.,

President.

CHAS. E. TOWNSEND,

Solicitor for Respondent.

CHAS. E. TOWNSEND,

Counsel for Respondent.

City and County of San Francisco,  
State of California,—ss.

Subscribed and sworn to before me this 20th day of November, 1908.

[Seal]

HARRY J. LASK,

Notary Public in and for the City and County of  
San Francisco, State of California.

Commission expires May 28, 1909.

Service by copy of the within answer, admitted this 27th day of November, 1908.

MILLER & WHITE,  
Attorneys for Complainant.

[Endorsed]: Filed November 27, 1908. Southard Hoffman, Clerk. By J. A. Schaertzer, Deputy Clerk.

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*In the United States Circuit Court for the Ninth  
Circuit, Northern District of California.*

IN EQUITY—No. 14,772.

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. CO.,

Respondent.

**Replication.**

This replicant saving and reserving unto himself now and at all the times hereafter, all and all manner of benefit and advantage of exception, which may be had or taken to the manifold insufficiencies of the answer of defendant, for replication thereto saith:

That it will aver, maintain and prove its said bill to be true, certain and sufficient in the law to be answered unto, and that the said answer of the defendant is uncertain, untrue and insufficient to be replied unto by this replicant, without this, that any other matter or thing whatsoever in the said answer of defendant contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and

avoided, traversed and denied, is true.

All of which matters and things this replicant is now and will be ready to aver, maintain and prove, as this Honorable Court shall direct, and humbly prays as in and by his said bill he hath already prayed.

MILLER & WHITE,  
Solicitors for Complainant.

Service of the within Replication admitted this 7th day of December, A. D. 1908.

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Sol. for Defendant.

[Endorsed]: Filed Dec. 7, 1908. Southard Hoffman, Clerk. By W. B. Maling, Dep. Clk.

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**[Proceedings Had Before Examiner in Chancery.]**

*In the Circuit Court of the United States, Ninth  
Judicial Circuit, Northern District of Cali-  
fornia.*

IN EQUITY—No. 14,772.

ALEXANDER LEVISON,

Complainant,

VS.

J. KITCHEN JR. COMPANY,

Defendant.

Be it remembered, that on the 6th day of February, 1909, and on the several days thereafter to which the examination was regularly adjourned, as hereinafter set forth, at my office, Room 214, in the United States Postoffice and Court Building, corner

of Seventh and Mission Streets, in the City and County of San Francisco, State of California, before me, E. H. Heacock, Examiner in Chancery, in the Circuit Court of the United States for the Ninth Circuit and Northern District of California, personally appeared the several witnesses whose names are hereinafter set forth, and who were produced and examined on behalf of the respective parties to the above-entitled cause. W. K. White, Esq., of Miller & White appeared as solicitor on behalf of complainant, and C. E. Townsend, Esq., as solicitor on behalf of defendant.

The following is a record of the proceedings:

**[Stipulation Re Copies of U. S. Letters Patent, etc.]**

It is stipulated between the respective parties that uncertified, printed, Patent Office copies of United States letters patent, or reissues thereof, may be introduced in evidence with the same force and effect as though certified or originals.

It is stipulated that the defendant is a corporation as alleged in the Bill of Complaint.

It is stipulated that the testimony herein may be adduced orally before the Examiner pursuant to equity rules.

It is stipulated that the testimony and proceedings may be taken in shorthand by Brainard C. Brown and by him put into typewriting.



**[Testimony of J. B. Lewis, for Complainant.]**

Examination-in-chief of J. B. LEWIS, called for complainant, sworn.

(By Mr. WHITE.)

Q. 1. State your name and residence, Mr. Lewis.

A. J. B. Lewis, 538 Page Street, San Francisco.

Q. 2. What is your occupation?

A. I am employed as a Clerk in the Auditor's Office, the City and County Auditor.

Q. 3. In the Auditor's Office of the City and County of San Francisco? A. Yes, sir.

Q. 4. How long have you occupied that position?

A. Well, since, I think, 1904.

Q. 5. Do you know anything about the sale to the City and County of San Francisco by the defendant herein, the J. Kitchen Jr. Co. of manifold books during the year 1908?

A. Well, at that time I had charge of the fees that were collected by the different departments; that is, the books were first brought into our office and then they were given to the different departments, and we have charge of all the books—the auditor's department has charge of all the fee-books in the city and county.

Q. 6. Can you state whether or not the defendant, John Kitchen Jr. Co. did sell to the City and County of San Francisco, during the year 1908, and prior to the month of September of that year, manifold books, manifold fee-books, to be used in the Board of Public Works department?



(Testimony of J. B. Lewis.)

A. They did; yes, sir.

Q. 7. I hand you a book, Mr. Lewis, and ask you to state whether or not this was one of the books that was sold by the defendant to the city and county prior to the month of Sept., 1908?

A. Yes, sir; this is the book that they sold and delivered to the auditor.

Q. 8. Do you know when that batch of books of which this book you hold in your hand was one, was delivered to the city? Approximately what date?

A. Well, I would not be sure of the date. It was along some time in June.

Q. 9. Of what year?                      A. 1908.

Q. 10. You are certain it was prior, are you, to the month of September?

A. Oh, yes, sir. I am sure of that, because they had to be delivered before the commencement of the fiscal years, which ends on June 30th. It commences on July 1.

Mr. WHITE.—Complainant offers in evidence this book, the fee-book sold by defendant to the City and County of San Francisco. (Marked Complainant's Exhibit "A.")

Mr. TOWNSEND.—No cross-examination.

Mr. WHITE.—Complainant offers in evidence the United States reissued letters patent No. 12,005, reissued on July 1, 1902, to complainant herein, Alexander Levison, for a manifold book, and asks that it be marked Complainant's Exhibit "B," being the patent in the suit.

(Marked Complainant's Exhibit "B.")

**[Testimony of John Kitchen, Jr., for Complainant.]**

Examination-in-chief of JOHN KITCHEN, Jr.,  
called for complainant, sworn.

(By Mr. WHITE.)

Q. 1. What is your residence, Mr. Kitchen?

A. Oakland.

Q. 2. Oakland, California?

A. Oakland, California.

Q. 3. Are you an officer of defendant corporation?  
A. I am.

Q. 4. What office do you hold, and how long have you held this office?

A. I am the president and I was the organizer of the company.

Q. 5. How long has the company been organized, the corporation?

A. Eight years, or nine years.

Q. 6. During the year 1908, prior to the month of September, I believe your company manufactured and sold to the City and County of San Francisco a batch of fifty-odd fee-books of the same construction and style of Complainant's Exhibit "A," of which batch exhibit "A" is one. Is that a fact?

A. That is a fact; yes.

Q. 7. I understand that your company has submitted a bid to the city and county regarding the furnishing to the city in the future of other fee-books. Is that not correct?

A. We have.

Q. 8. That bid is now under consideration by the printing committee of the Supervisors of this city

(Testimony of John Kitchen, Jr.)

and county.           A. It is.

Q. 9. If the contract is awarded to your company on such bid, is it your intention to furnish books to the city and county of the character and type of Complainant's Exhibit "A"?

A. We certainly would.

Q. 10. Unless you are restrained, or your company is restrained by an injunction issued by this Court, it is your intention, as I understand it, to manufacture and sell to the city, books identical in construction with Complainant's Exhibit "A," provided that the contract is awarded to you?

A. Yes.

Q. 11. What is the purpose, Mr. Kitchen, in the construction of your book, of attaching one edge of carbon to the piece of cardboard and cutting the cardboard out in the manner shown in your book?

A. That is my patent which was allowed by the Patent Office. That is my patent.

Q. 12. Yes. I asked you, what is the purpose of attaching the carbon to the cardboard and fluting the edge of the cardboard in the manner indicated in your book?

A. Well, that is a removable carbon—it is a loose carbon.

Q. 13. A loose carbon?

A. A loose carbon; yes.

Q. 14. It serves only the purpose, as I understand it, of any loose carbon.           A. Of what?

Q. 15. Of any loose carbon inserted in the book?

A. No, it does not. It holds the carbon into

(Testimony of John Kitchen, Jr.)

place. It remains virtually there as a holder for the carbon. It is a carbon holder.

Q. 16. As I understand it, then, the carbon or one edge of the same, is attached to this piece of cardboard which is cut out in the manner indicated, for the purpose of permitting the cardboard to be slipped in between the covers of the book in order to hold the carbon in place. Is that correct?

A. That is right; yes.

Q. 17. In other words, it is a means of binding the carbon in place, in the book.

A. No, it is not bound in.

Q. 18. It is not bound in?

A. No, it is not bound in. That is removable.

Q. 19. It would fall out?

A. It might fall out, but it is made to hold the carbon into place, and the carbon will be held properly in place if it is properly made.

Q. 20. As I understand it then, when the carbon is held in place, in this manner, you don't consider it bound in the book?      A. No, not bound in.

Q. 21. What do you understand by the expression "bound"?

A. "Bound" is fastened; fastened into a book, so that it cannot be removed without being torn out; bound in.

Q. 22. That is your definition?

A. That is my definition; bound in a book. Of course, it is not to be perforated or taken out in any manner without tearing it out.

Q. 23. In your books is the carbon sufficiently



(Testimony of John Kitchen, Jr.)

bound in with the other portion of the book to hold the same in place under ordinary conditions?

A. Well, that is up to the man that uses it, to say that. The carbon is easily removed. The carbon is not bound in.

Q. 24. Your idea, though, in making the construction in this manner was that the carbon would be held in place, bound in place, restrained from freely moving about, and being loose, was it not?

A. No, it is just to hold the carbon into place. It is placed in the book, and the carbon will stay there. That is the construction of the binder, yes.

Q. 25. What do you sew the leaves of the book together for?

A. The leaves of the book are not sewed together. The leaves are wired, stitched together.

Q. 26. How do you bind them together?

A. The leaves are wired, stitched.

Q. 27. What is the purpose of stitching them together?

A. That is the cheapest method, of doing it.

Q. 28. Well, I know, but why do you do it at all?

A. Oh, so they will hold together.

Q. 29. Oh, simply to hold them together.

A. To hold them together.

Q. 30. So that you can put a sheet of carbon in in this manner, so that it will be held in its place?

A. We stitch the leaves together of this book so that they will be held in place, and then we attach the cover of the book by glue, so that it will be held in place.

(Testimony of John Kitchen, Jr.)

Q. 31. So that you have three different means of holding these elements together in this one book.

A. Yes, in various ways. The book is held together by wire and the cover is fastened onto the back with glue.

Q. 32. In the manufacture of a book of this character, would it not be cheaper, Mr. Kitchen, to simply sew the edge of the carbon in with the sheets of the book? A. Undoubtedly it would.

Q. 33. Why did you adopt this construction?

A. Because it is an improvement.

Q. 34. You consider this an improvement?

A. I do, yes, sir.

Q. 35. You thought it was an improvement in the manufacture?

A. Yes; suppose you tear a carbon in a book that is wired in, what are you going to do? You have either got to use a loose carbon, or tear your sheets out.

Q. 36. Prior to the commencement of this suit, and prior to your selling of these books, to the city you were notified, were you not, by Mr. Alexander Levison, the complainant in this suit, or his attorneys and agents, that the construction of a book of that character would infringe the letters patent in the suit?

A. Yes, but I did not consider it the same book as Mr. Levison's. I had made this sample up, and applied for patents of my own.

Q. 37. But after receiving that notice of infringement, you went ahead and constructed these

(Testimony of John Kitchen, Jr.)

books and delivered them to the city, delivered to the city a batch of books of which Complainant's Exhibit "A" is one?

A. These books were made and delivered before there was any notice sent me, if I remember rightly. I am not positive as to that, but I am pretty sure in regard to it.

Q. 38. But you were notified in regard to Mr. Levison's patent?

A. I knew what Mr. Levison's patent was; yes.  
Mr. WHITE.—That is all.

Cross-examination.

(By Mr. TOWNSEND.)

XQ. 1. The reason you went ahead and delivered those books and made others, Mr. Kitchen, was because you asked legal advice as to whether your device was an infringement, was it not?

A. It was.

XQ. 2. And you were told that the device that you were making was not an infringement, in the opinion of your patent attorneys? A. I was.

XQ. 3. And your statement that you were ready to furnish other books to the Board of Public Works in accordance with your bid, as answered in your direct examination a moment ago, is because you are advised that your device does not infringe upon the patent of Mr. Levison, the patent in suit?

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial.

A. Exactly.

XQ. 4. (By Mr. TOWNSEND.) Is the cover of

(Testimony of John Kitchen, Jr.)

the Exhibit "A" in evidence removable in the sense that your carbon is removable?

Mr. WHITE.—We object to that as immaterial.

A. No.

XQ. 5. (By Mr. TOWNSEND.) Are the pages removable?

Mr. WHITE.—The same objection.

A. The pages are perforated so that they can be torn out, but not removable on the same lines as the carbon.

XQ. 6. (By Mr. TOWNSEND.) The cover and the pages are bound together, are they not?

A. The cover and the pages are bound together.

XQ. 7. And your carbon is a loose carbon which can be put in and taken out of the book?

A. It can be removed and put in place in any portion of the book.

XQ. 8. You can put in one carbon, or put in half a dozen, can you not? A. Exactly.

XQ. 9. Is Mr. Levison's carbon in his books, or such as is shown in his patent—are they removable?

Mr. WHITE.—We object to that as immaterial.

A. They are not.

XQ. 10. (By Mr. TOWNSEND.) An ordinary loose carbon without your strengthening strip at the end would work substantially the same as your carbon does, would it not?

A. Well, it would not work as satisfactorily. You could not get as good results. You might on one or two copies only.

XQ. 11. It would stay in the book as long as the



(Testimony of John Kitchen, Jr.)

book was handled carefully, would it not?

A. Yes.

XQ. 12. It would stay in the book?

A. Yes.

Mr. TOWNSEND.—That is all.

Redirect Examination.

(By Mr. WHITE.)

RDQ. 1. You say the loose carbon worked satisfactorily. Is this more expensive than the process you have embodied in that book? Can you explain why your company goes to this additional expense of constructing this book, when a loose carbon serves the same purpose?

Mr. TOWNSEND.—We object to that, because that does not express the statement of the witness correctly. He said the loose carbon was not as satisfactory as his improved construction.

RDQ. 2. (By Mr. WHITE.) You can answer the question.

A. Well, the more times you fold a carbon, it is hard to fold it in the same position; and by using this device, you can always fold it in the same position.

RDQ. 3. In the ordinary use of a book of this character, it is quite essential and important, is it not, that the carbon should be in place at all times?

A. Oh, well, it depends. It depends in what place. You can take one carbon out, and put another in. It is not necessary to have your carbon absolutely stationary. You might use one carbon with one sheet and take that carbon out and use an-

(Testimony of John Kitchen, Jr.)

other one next time.

RDQ. 4. Nothing would be gained by substituting one carbon in your book unless the carbon was worn out.

A. Unless the carbon was worn out or torn.

RDQ. 5. But if you take the old carbon out of the book and put a new carbon in the book, still it is important that the new carbon should be held in place, and it is for that reason that you hold it in place and do not use a loose carbon which is liable to fall out of the book.

A. Yes, it is to hold the carbon in that book, and to get better results.

RDQ. 6. This is the purpose of your construction, that is, to hold the carbon in the book?

A. Yes, sir, exactly.

RDQ. 7. And that construction accomplishes that purpose?

A. Yes, sir.

RDQ. 8. Well, you say it accomplishes it. Does it accomplish it successfully?

A. It does.

RDQ. 9. Quite successfully, does it not?

A. Yes, it does.

RDQ. 10. So successfully that nothing would be gained by sewing the carbon in the book to hold it in place?

A. Well, no; I consider this an improvement on the other one.

RDQ. 11. You consider that this holds the carbon in place better than by sewing it in the book?

A. Yes, I consider this better than the other.

Mr. WHITE.—That is all.

**[Testimony of Alexander Levison, for Complainant.]**

Examination-in-chief of ALEXANDER LEVISON, called for complainant, sworn.

(By Mr. WHITE.)

Q. 1. What is your residence?

A. San Francisco; 526 Baker Street.

Q. 2. Are you the same Alexander Levison to whom the letters patent in suit, or rather, the reissued letters patent in suit were issued on July 1, 1902?

A. I am.

Q. 3. At all times since the delivery of said reissued letters patent to you, the patent in suit, have you retained all the right, title and interest in and to the said patent?

A. I have, with the exception of the licensees.

Q. 4. What is your business?

A. Printing and bookbinding.

Q. 5. How long have you been engaged in that business?

A. Since 1892.

Q. 6. With what company are you associated in the printing business?

A. The Levison Printing Co.

Q. 7. For how long a time has the Levison Printing Co. been engaged in the manufacture and sale of manifold books of various character and description?

A. Well, the Levison Printing Co., as a corporation, has only existed since the fire of April, 1906, but the Levison Printing Co. are the successors of the former company, the successors to my business prior to that time. It was an individual business

(Testimony of Alexander Levison.)

simply, a private business; up to the time of the corporation, and this is practically the same business that we have in the manufacture of manifold books of various kinds since 1892.

Q. 8. Have you or the Levison Printing Co. ever manufactured books in connection with the specifications and drawings of the letters patent in suit, re-issued number 12,005?

A. Very many of them.

Q. 9. What have you to say regarding the marking of said books in order to give notice to the world that the same were covered by any patents?

A. Well, every sheet of every book that was made by us was marked "Patented Feby. 25, Sept. 30, Re-issued July 1, 1902, Levison Printing Co., San Francisco."

Q. 10. As I understand it, then, since the issuance of the patent in suit, the Levison Printing Co. has always marked the books sold by them in the manner indicated by you in your previous answer—is that correct?      A. Yes, sir.

Q. 11. Have you read, and are you familiar with the patent in suit?      A. I am.

Q. 12. Now, I ask you to take the patent in suit and Complainant's Exhibit "A," and compare such exhibit with Claim 2 of the patent in suit, and state whether or not you find any of the elements of Claim 2 embodied in that exhibit "A."

A. I find all the elements of Claim 2 embodied in the book before me.

Mr. TOWNSEND.—Just one question. I want to



(Testimony of Alexander Levison.)

ask if Mr. Levison is being examined now as an expert.

Mr. WHITE.—Yes, sir; he is an expert, being the inventor of this identical invention. Perhaps he knows more about the invention than anyone else, having brought it into the world.

Mr. TOWNSEND.—I move that the last answer be stricken out, as it is not shown that the witness is competent to testify, not having been qualified as an expert; and that if the attempt is to show infringement of a claim, the conclusion is a legal one.

Q. 13. (By Mr. WHITE.) Do you find, or do you not find, each and all the elements of Claim 2 of the patent in suit combined in substantially the same way and performing substantially the same result or function in Complainant's Exhibit "A"?

Mr. TOWNSEND.—We object to that as leading and totally lacking in foundation.

A. I certainly do. I find all the elements there which are described in my patent.

Q. 14. (By Mr. WHITE.) I will ask you to make the same comparison between Claim 3 of the patent in suit and Complainant's Exhibit "A."

Mr. TOWNSEND.—We make the same objection.

A. I do. I find that the book is made with all the elements described in Claim 3.

Q. 15. (By Mr. WHITE.) What have you to say as regards the combination of such elements and the function performed by such elements in the book, as compared with the functions and combination of such elements set forth in Claim 3?

(Testimony of Alexander Levison.)

Mr. TOWNSEND.—We object to that as leading, and calling for an answer for which the witness is not qualified.

A. Well, take the claim as it reads: “A manifold book comprising a double carbon sheet.” There is the double carbon sheet. “And a plurality of recording sheets.” There is the plurality of recording sheets. “The record sheets outside the stubs being divided into three substantially equal separable parts.” There are the one, two, three, substantially equal separable parts. “And the carbon sheet extending the width of two of said parts.” There is the carbon sheet extending the width of two of said parts.” “Said recording sheets having the stubs to which they are attached along lines of perforation.” There are the lines of perforation. “Said stubs and one side of the carbon sheet being all bound together to form a book substantially as described.” There are the stubs and one side of the carbon sheet being bound together. There is one side of the carbon sheet being bound together to form a book, and there is the back of that carbon paper bound in that book.

Q. 16. (By Mr. WHITE.) What were you doing with the carbon sheet when you made your last answer?

A. I was raising the body of the book by the carbon paper which was bound into that book. The carbon paper is bound there, is held there. It is restrained there; and that is the same as my patent covers; “bound, held or restrained” meaning the same thing.

(Testimony of Alexander Levison.)

Q. 17. As I understand it, when you made your last answer you illustrated the same by taking hold of the outer edge of one of the carbon sheets of Complainant's Exhibit "A" and elevating the book by lifting such edge of the sheet. Is that correct?

A. I lifted the book by lifting the edge of the sheet, and the carbon paper was bound into the book; and that is the reason I could lift the book, because the carbon was bound.

Q. 18. There was no attraction of magnetism?

A. I have no electricity or magnetism, no.

Q. 19. Now, comparing Claim 4 of the patent in suit, with the Complainant's Exhibit "A" in the same manner that you have heretofore compared Claims 2 and 3, what have you to say?

Mr. TOWNSEND.—We make the same objection as was made to the similar question in regard to Claim 3.

A. Well, Claim 4 and Claim 3 are, I think, the same, with the exception that Claim 4 would cover a book comprised of more than 3 sections, as quadruple copies, and so on; therefore the book, in my judgment, is an infringement on my patent for the same reason as the previous answer.

Mr. TOWNSEND.—I move that that answer be stricken out as being a legal conclusion.

Q. 20. (By Mr. WHITE.) I ask you if you did, or did not find, embodied in Complainant's Exhibit "A" each and all the elements set forth and enumerated in Claim 4 of the patent in suit, and combined in substantially the same way, to form the same result?



(Testimony of Alexander Levison.)

Mr. TOWNSEND.—We object to that on the same grounds as urged to a previous similar question.

A. I did.

Q. 21. (By Mr. WHITE.) And do you?

A. I do.

Q. 22. Now, make the same comparison between Claim 5 of the patent in suit and Complainant's Exhibit "A.?"

Mr. TOWNSEND.—We make the same objection as was entered to questions of this kind with respect to the other claims.

A. I find this just the same as Claims 2, 3, 4 and 5. This book is made substantially the same and embodies all the elements described in Claim 5 of my patent.

Q. 23. (By Mr. WHITE.) Since the issuance of your patent, the one in suit, and the manufacture of manifold books in connection with the same by your lessee, the Levison Printing Co., have the public and the trade generally acquiesced in your rights under the patent, and accepted the same, and acquiesced in the validity of the patent?

A. They have, to a very great extent, too.

Q. 24. About what proportion of the business done in this city and county, of manifold books of this character, does your licensee, the Levison Printing Co. do, if you know?

A. Well, of this character we do them all, because we have not any competition in that. But I could take and make a comparison between certain



(Testimony of Alexander Levison.)

other books that we sell, and show the comparative sale. These are fee-books sold to the City and County of San Francisco, this particular book. We have not handled this particular book. Whoever sells them sells them all.

Q. 25. Since the issuance of your patent, have you sold fee-books of this character to the City and County of San Francisco?

A. Since the time that I introduced this system and the book into the Auditor's Office, I have sold all of the fee-books with the exception of one lot which were made by another concern, an infringement, and which was afterwards settled. There was a suit entered and the case was settled to the satisfaction of all parties concerned. But in the shipping-book line, I could illustrate these sales.

Q. 26. In my question, I did not mean to limit the same to fee-books. I meant manifold books embodying your invention, embodying the elements of these various claims combined in the same way.

Mr. TOWNSEND.—We object to this line of questions as wholly irrelevant and immaterial to any issue of the alleged infringement.

A. Well, take, for instance, shipping receipt-books, where there are always triplicates. When I put my book on the market there were other books, three or four or five kinds; and they were none of them giving the satisfaction that they should. The fact of the carbon paper being loose, lying around the shipping office and not being ready when they wanted it, and so on, made all the other books ob-

(Testimony of Alexander Levison.)

jectionable; and when I started in to sell this book I worked it up to a point that I can safely say now that we were selling from 75 to 90 per cent of all the shipping receipts that are used in this city. We are now selling that proportion. That is, the proportion of that one line.

Q. 27. (By Mr. WHITE.) Immediately after the issuance of the patent in suit, did you and your licensees commence the manufacture of books covered by the patent in suit, and mark the same in the manner indicated by you in your former answer?

A. Yes, sir.

Q. 28. Have you ever since the first manufacture of books in connection with the patent in suit—have you or your licensee continued to so mark all books manufactured and sold by you?

A. We have.

Mr. WHITE.—Take the witness.

Cross-examination.

(By Mr. TOWNSEND.)

XQ. 1. How many licensees have you, Mr. Levison?

A. The Levison Printing Co. That is all.

XQ. 2. What is the nature of that license?

Mr. WHITE.—We object to that as immaterial.

A. Well, it is a license to manufacture and sell.

XQ. 3. (By Mr. TOWNSEND.) An exclusive license?

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial.

(Testimony of Alexander Levison.)

A. Well, it is a limited license, with certain restrictions.

XQ. 4. (By Mr. TOWNSEND.) Can you produce a copy of that license?

Mr. WHITE.—We object to that as immaterial.

A. I haven't it with me; no.

XQ. 5. (By Mr. TOWNSEND.) State the substance of it.

A. The substance of it is, that I permit the Levison Printing Co. to manufacture under that patent in the State of California. I have given my company the right to manufacture and sell these books in the State of California, and I agree not to give that same right to anybody else in the State of California.

XQ. 6. That license, then, is simply a territorial one, limited to the State of California?

A. That is it; yes, sir.

XQ. 7. You spoke about binding the carbons into the book. Were you the first to bind a carbon into a manifold book?

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial, it being indefinite and uncertain as to the character of book referred to by counsel.

XQ. 8. (By Mr. TOWNSEND.) Manifold books, I said. Were you the first to bind carbons, the first to use carbons for manufacturing purposes, binding those carbons into a manifolding book?

Mr. WHITE.—We make the same objection.

A. There are many manifolding books. There



(Testimony of Alexander Levison.)

are duplicate manifolding books. There are triplicate manifolding books. There are quadruplicate manifolding books. There are five copies. People have bound carbon paper into a duplicate book, but not into a triplicate or a quadruplicate book.

XQ. 9. (By Mr. TOWNSEND.) The binding of carbons, at least in a duplicate form of book, was known to you before you ever applied for this patent, and before you got up your invention?

Mr. WHITE.—We object to that as immaterial.

A. Well, I saw books, duplicating books with carbons attached, yes.

XQ. 10. (By Mr. TOWNSEND.) Long prior to your invention in suit?

Mr. WHITE.—We make the same objection.

XQ. 11. (By Mr. TOWNSEND.) And duplicating books, bound manifold books, and triplicate and quadruplicate books you have known of, have you not, before you ever got up this invention or conceived of it?

A. Quadruplicate books and triplicate books were probably made before any one of us was born; a long time ago.

XQ. 12. Then there was nothing new in the binding of carbons in the manifold books?

Mr. WHITE.—We object to the question as indefinite; not specifying the character of the manifolding book. This patent does not cover all manifolding books.

A. Why, certainly; that is just what I was going to say. I say, in regard to any manifolding book,



(Testimony of Alexander Levison.)

I claim no patent on duplicate books. I only claim to own a patent on a certain kind of manifolding book, on this particular kind of manifolding book, the binding in of the carbon paper in the way I bind it has practically driven all the other devices out of business.

XQ. 13. (By Mr. TOWNSEND.) Have you put out a duplicate manifold book with the carbon bound in it?

A. I claim no patent on those.

XQ. 14. Have you put all duplicate manifold books with the carbon bound in them out of business?

Mr. WHITE.—We object to that as incompetent and immaterial.

A. I don't compete with them.

XQ. 15. I am talking about manifolding books, duplicate books, whether there are two or three or four or five carbons bound into one book. Have you put all those books out of business?

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial, this suit not being concerned with the manufacture of books in general, simply being concerned with the invention disclosed in this patent in suit.

A. I don't make any contentions on the duplicating book. I am claiming the triplicate, quadruplicate, etc.; more than two copies. I don't claim it on two copies. I don't try to put them out of business. I am not spending much time on the duplicate books. I can't manufacture them as cheaply as the others.

(Testimony of Alexander Levison.)

What I am working on principally is the triplicate books and more than triplicate books.

XQ. 16. (By Mr. TOWNSEND.) As far as the binding together of a plurality of sections, the binding together of leaves having a plurality of sections, and the binding into a book of these leaves with carbon, that is still going on just as extensively as ever, is it not?

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial, the question being too comprehensive, and including all character and descriptions of manifolding books, the problems of which are not the same as in the construction of the book in suit. (Question read.)

A. Well, I don't know how extensively it is going on, and I don't care, because I am not much interested in it. But with regard to placing with the trade the books described by the patent in suit, I know what I am talking about. But outside of the books that I claim here in the patent, I don't care what they make—they can make what they want.

XQ. 17. (By Mr. TOWNSEND.) You are making simply your special kind of book, in which you stitch your carbon in, are you not?

Mr. WHITE.—We object to that as incompetent and immaterial.

A. I am making the books described in this patent.

XQ. 18. (By Mr. TOWNSEND.) Answer my question, please.

A. Well, I am making these books that I have de-

(Testimony of Alexander Levison.)

scribed in this patent.

XQ. 19. In your books the carbons are stitched in with leaves divided into the plurality of sections, are they not?

A. It says here, "A plurality of sections, not less than three." That is what I am doing.

XQ. 20. That plurality of sections is what you are using, and you are stitching your carbons into books of that sort, and always have?

A. I am stitching my carbons into books as described in this claim in this patent.

XQ. 21. You are attaching your carbons in a bound book with leaves having a plurality of sections, and these leaves or these sections and the carbons being united by stitching, are you not?

Mr. WHITE.—We object to that as immaterial, what the character of binding is, as the same is not specified in any of the claims.

A. We bind carbon paper in the books. We do not necessarily have to stitch it in, we bind it in. Any method of binding it in is binding. Now, we bind it in the books.

XQ. 22. (By Mr. TOWNSEND.) You have always stitched it in, have you not? You have bound it in as a stub, have you not?

Mr. WHITE.—We object to that as immaterial.

A. Binding in don't mean stitching in.

XQ. 23. (By Mr. TOWNSEND.) You have bound it into a stub when you made up your book, have you not? A. We bind it into a stub.

XQ. 24. You do that when you make up your book?



(Testimony of Alexander Levison.)

Mr. WHITE.—We object to that as immaterial.

A. Yes, we bind it into the stub when we made up the book.

XQ. 25. (By Mr. TOWNSEND.) Your carbon cannot be removed without tearing it out, either, can it?

Mr. WHITE.—We object to that as immaterial.

A. In the particular book that we are manufacturing, extensively, they cannot be taken out, and that is the selling of it. That is the reason that they sell, because the carbons cannot be taken out.

XQ. 26. (By Mr. TOWNSEND.) They have to be torn out, do they not?

A. They don't have to be torn out. If we don't want to put them in permanently enough to tear them out, we could put them in so that they could come out without tearing, and they would still be bound in the book.

XQ. 27. Well, I am asking you the question, Mr. Levison: Prior to your getting up this alleged invention, they were manufacturing books with a plurality of sections, and a carbon to interfold with those sections, all bound into a stub by stitching or other means? Is not that the fact?

Mr. WHITE.—We object to that as leading, indefinite and uncertain, as to the number of sections of the recording leaves; uncertain as to what counsel means by the expression, "plurality."

A. I have said before that I did not contend anything on less than three sections; that three sections or more is my original invention; that less than three



(Testimony of Alexander Levison.)

sections I did not claim on. I don't claim on duplicating books. There have been duplicating books with carbons attached for a long time. I answered that way before.

XQ. 28. (By Mr. TOWNSEND.) Then your invention, your alleged invention, consisted in adding one or more sections to the sheet?

A. No, not within a long ways. The merely adding of a section to a sheet would mean absolutely nothing. When you use a duplicate book you have got to use a semi-faced carbon paper, carbonized on one side. When you get to making three copies you have got to use a double-faced carbon paper.

XQ. 29. Were you the first to use double-faced carbon?

Mr. WHITE.—We object to that as immaterial.

A. No.

XQ. 30. (By Mr. TOWNSEND.) There was nothing new in even triplicate books, before your alleged invention, and double-faced carbon, was there?

Mr. WHITE.—We object to that as immaterial.

A. No, double-faced carbon with triplicate books were used before, but it was bound as loose carbon. And there was a party called on me and tried to sell me this patent for \$75, and I would not buy it.

XQ. 31. (By Mr. TOWNSEND.) Then your invention was simply taking that loose carbon and binding it into this book of yours, was it?

Mr. WHITE.—We object to that on the ground that no such statement has been made.

(Testimony of Alexander Levison.)

A. No; in the mere taking of a double-faced carbon and putting it in between three sheets without giving it any study, that was what they did, and as a consequence it would not sell. But we have a good many elements in here, all combined together, making a book that seems to be thoroughly satisfactory and sells quicker than the other books.

XQ. 32. (By Mr. TOWNSEND.) I understand that prior to your alleged invention there were triplicate books of this character with triplicate bound leaves and loose double carbons?

A. Yes, sir. They could not give them away, either, in this town.

XQ. 33. You stated that you considered Claims 3 and 4 of the patent sued on, substantially of the same scope. Do I understand you rightly in that?

A. Well, except without reading it carefully I could not tell. I think that Claim 3 is without a cardboard backing.

XQ. 34. Claim 4 is also without a cardboard backing?

A. All these claims are substantially the same. They are very similar, you know. You have just got to study it out, that is all.

XQ. 35. Do you consider Claims 3, 4 and 5 substantially the same in scope?

Mr. WHITE.—We object to that as incompetent and immaterial, calling for a legal conclusion.

XQ. 36. (By Mr. TOWNSEND.) I should say calling for the same elements.

A. Well, they call for a book with all the ele-

(Testimony of Alexander Levison.)

ments, a big portion of all the elements, a book with three equal parts and a book with parts that are not equal; simply describing the various manners in which the same book could be made. That is all.

XQ. 37. Do not both Claims 3 and 4 call for sheets having three substantially equal, separate parts?

A. Well, my patent attorney drew those claims, and I am not going to study them out to point out a legal answer.

XQ. 38. I am asking for what the elements read in there, that they call for. You said that these claims were all readable into the defendant's device.

A. Well, I will go through them again. (After reading.) Well, the patent is there. It speaks for itself. You can't change it any. I can't change it by answering that question, it is there.

XQ. 39. You cannot tell the difference between Claims 3 and 4?

A. I could if I studied them. "A manifold book comprising in order a double-carbon sheet and a plurality of recording sheets." There is the double-carbon sheet, and there is the plurality of recording sheets.

XQ. 40. I asked you to compare Claims 3 and 4.

A. "The record sheets outside the stubs being divided into three substantially equal, separable parts." Claim 3 is for a triplicate book, and Claim 4 is for a book with more than three copies.

XQ. 41. In your opinion, then, it required invention to make a book of four copies or more than



(Testimony of Alexander Levison.)

three copies, when you have been shown a way to make three copies, did it?

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial, that matter not being in issue in this case.

A. When I got up the triplicate book, I got up the quadruplicate book, and I explained this as nearly as I could to my attorney, and he drew these claims and told me what I needed. He was the doctor. I was not. I did not tell him what to give me. I told him that I wanted to protect this book, and I described it, and this is what he gave me.

XQ. 42. (By Mr. TOWNSEND.) Claim 4 is for a quadruplicate book, while Claim 3 is for a triplicate book. A. Yes.

XQ. 43. And Claim 4 being for a quadruplicate book, then from Claim 3 it required invention to make it into Claim 4.

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial, and calling for a conclusion.

A. I don't say that, either.

Mr. WHITE.—It is not for the witness to testify to the scope of these claims. It is for the Court to determine what scope should be given to the claims.

The WITNESS.—The triplicate and quadruplicate books are identically the same. They require the same elements, the same kind of carbon paper, the same construction, the same method of folding, and everything is the same. But it is my conclusion that what you are coming at is the difference between



(Testimony of Alexander Levison.)

a duplicate and a triplicate, and if a triplicate requires invention over a duplicate, and if a quadruplicate requires invention over a triplicate, that the duplicate and triplicate would be the same. Else what difference in the world would it be? The duplicate book is used with single-faced carbon, made of one fold. In the triplicate book that brought in the double-faced carbon with two folds or three folds, and the quadruplicate used the natural folding of the triplicate; whereas the duplicate, which had been in business for years, never came out with the triplicate carbon attached; therefore it shows me that there is a big difference between those two.

(Further hearing continued subject to notice.)

Saturday, February 27, 1909, 2 P. M.

Counsel appearing:

W. K. WHITE, Esq., of MILLER & WHITE,  
Solicitors for Complainant.

C. E. TOWNSEND, Esq., Solicitor for Defendant.

(It is hereby stipulated and agreed by and between the parties to the above-entitled suit, that the complainant may have to and including April 1, 1909, in which to take its rebuttal testimony herein.)

**[Testimony of Edward F. Crandall, for Defendant.]**

Testimony of EDWARD F. CRANDALL, called for defendant, sworn.

(By Mr. TOWNSEND.)

Q. 1. State your full name, age, residence and occupation.

(Testimony of Edward F. Crandall.)

A. Edward Ford Crandall; aged 35. I am in the employ of Cunningham, Curtiss & Welch. My residence is Oakland.

Q. 2. What is the nature of the business of Cunningham, Curtiss & Welch?

A. They are wholesale stationers and printers and blank-book manufacturers.

Q. 3. What is your position in that company?

A. I am assistant manager of the company.

Q. 4. How long have you been with them?

A. I have been with them about 20 years.

Q. 5. In what department have you worked there?

A. I have served in all departments of the house. For the past 10 years and up to the 1st of January I was head of what is known as the manufacturing department, the printing and bookbinding department.

Q. 6. Do you manufacture manifold books in your firm? Do you handle them?

A. By manifold books you mean carbon books?

Q. 7. Yes. A. Yes.

Q. 8. What is the extent, in a usual way, of the size of the business of your firm, compared with other firms?

Mr. WHITE.—We object to that as immaterial.

A. I should say we are the largest house on the Pacific Coast.

Q. 9. (By Mr. TOWNSEND.) Does your firm handle a triplicate book? A. Yes, sir.

Q. 10. Do you handle the Levison book?

(Testimony of Edward F. Crandall.)

A. No.

Q. 11. Do you handle a triplicate shipping receipt-book?      A. We do.

Q. 12. Have you much trade in that line?

A. Yes; we have a large trade in it.

Q. 13. Where is that trade confined to particularly, if confined, and how extensive is it?

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial, what the amount of business done by Cunningham, Curtiss & Welch is.

A. They are sold all over the coast; in the Islands, Nevada, wherever we do business we sell the shipping-books.

Q. 14. You sell those books in San Francisco, do you?

Mr. WHITE.—The question is objected to as indefinite and uncertain as to the form of the book and the construction of the same, referred to by counsel.

A. We do.

Q. 15. (By Mr. TOWNSEND.) Do you know the Levison book, the Levison patent, here in issue?

A. Well, I know what is known as the Levison book. Of course, I don't know what they hold their patents on.

Q. 16. Do you know what the Levison book is on the market?

Mr. WHITE.—We object to that as indefinite as to what the form of the book is, as referred to by counsel, it having already appeared in this case that the Levison Co., the Levison who is complainant in this case, has marketed a large number of different



(Testimony of Edward F. Crandall.)

character of books, all of which are called the Levison book.

Q. 17. (By Mr. TOWNSEND.) I show you copy of Complainant's Exhibit "B," and ask if that is the book which you are putting on the market, a triplicate book of that sort.

Mr. WHITE.—We object to that question, no proper foundation having been laid, it not having been shown that this witness is competent to read drawings or specifications of a patent, or to understand the same.

A. No, we did not sell that style of book.

Q. 18. (By Mr. TOWNSEND.) Do you recognize the drawing before you as corresponding to the Levison book?

Mr. WHITE.—We make the same objection.

A. Yes, I think I do.

Q. 19. (By Mr. TOWNSEND.) May I ask you whether it is a fact or not that Mr. Levison's company have practically monopolized the business of triplicate books or manifolding books, in this city?

Mr. WHITE.—That question is objected to, no proper foundation having been laid; and on the further ground that the same is indefinite and uncertain, as to the form and construction of the book referred to.

A. He has not, as far as I know.

Mr. WHITE.—I move to strike out the answer, on the ground stated in the objection, and I give notice to counsel that we will renew this motion, at the final hearing.



(Testimony of Edward F. Crandall.)

Q. 20. (By Mr. TOWNSEND.) What would be the reason for your last answer, that he has not monopolized the business?

Mr. WHITE.—We make the same objection.

A. Well, the reason would be that we sell a great many of the other style of shipping-book. We have no call to speak of, for this book. Once in a great while some one will come in and ask for a Levison book. But we have very little call for the Levison Shipping-book.

Mr. WHITE.—We make the same motion, and give the same notice.

Q. 21. (By Mr. TOWNSEND.) But you say that you do sell a great many shipping-books of triplicate form in this city? A. Yes.

Q. 22. And that you don't use the Levison book?

Mr. WHITE.—We object to that as leading; and upon the further ground of its being indefinite as to the specific book referred to.

Q. 23. (By Mr. TOWNSEND.) If Mr. Levison's book has met with popularity, what would you ascribe that popularity to?

Mr. WHITE.—We object to that as calling for a mere conclusion of the witness; no proper foundation laid.

A. The popularity would be due to his soliciting the trade.

Q. 24. What other reasons?

Mr. WHITE.—Same objection.

A. Well, I don't know. He has solicitors out all over the State showing the book; all over the city

(Testimony of Edward F. Crandall.)

and all over the State, so far as I know, showing the book and soliciting the trade for it. That is about the only reason that I see that it sells. I don't know whether it is any better book or any worse book than the one we sell.

Q. 25. (By Mr. TOWNSEND.) Do you know whether any other firms in this city sell the triplicate receipt-books other than Mr. Levison?

Mr. WHITE.—We object to that as indefinite and uncertain, as to the form of the book referred to.

A. There are other firms making a specialty of shipping-books, and they sell a great many of them.

Q. 26. (By Mr. TOWNSEND.) How long have your firm been selling triplicate receipt-books?

Mr. WHITE.—We object to that as immaterial, and on the further ground that the question is indefinite as to the form and construction of the books referred to; and if the purpose is to anticipate the patent in suit, the question is further objected to on the ground that the name of this witness as a user or one familiar with the invention is not set up in the answer as provided for by section 4920 of the Revised Statutes.

A. I could not answer that question, as they have sold the books as long as I have been with them, which is about 20 years.

Mr. WHITE.—I move to strike out the answer on the ground stated in the objection. Notice is given that this motion will be renewed at the final hearing.

Q. 27. (By Mr. TOWNSEND.) With your ex-

(Testimony of Edward F. Crandall.)

perience as a binder and in the printing business, Mr. Crandall, what is your understanding of the term "a bound book" or a book in which the carbon is bound in with the leaves?

Mr. WHITE.—The question is objected to on the ground that no proper foundation has been laid for the same, and on the further ground that it calls for a conclusion of the witness.

A. My idea of the question would be a book with the carbon stitched to it, the same as balance sheets are, either sewed with wire or staples of some sort, that we have.

Q. 28. (By Mr. TOWNSEND.) In a bound manifold book do you generally consider that the sheets are fixedly bound, that all the sheets are fixedly bound together, or that some of them may be removed?

Mr. WHITE.—That is objected to as leading, and on the further ground that no proper foundation has been laid.

A. A bound book, I should say, that the sheets in the book must be bound through.

Q. 29. (By Mr. TOWNSEND.) I will show you Complainant's Exhibit "A," which is a book such as is made by the respondent, Mr. Kitchen's Company, and ask you if you consider the carbons there shown as bound into that book, speaking from your experience in the book-binding art?

Mr. WHITE.—That question is objected to, on the same grounds and on the further ground that no proper foundation has been laid.



(Testimony of Edward F. Crandall.)

A. I would not call that carbon bound in a book. It looks to me as a loose leaf carbon, simply a separate piece of carbon.

Q. 30. (By Mr. TOWNSEND.) In a contract to supply manifolding books, if that contract called for a bound book, with the carbon bound in, what would you from your experience in your line of business, understand by that?

Mr. WHITE.—We object to that as leading; and on the further ground that no proper foundation has been laid.

A. I would consider the carbon to be sewed in with the other sheets, the same as the other sheets are.

Q. 31. (By Mr. TOWNSEND.) Would you consider, and would it be considered in the bookbinding art, that the exhibit "A," respondent's book, fulfilled the requirements of that contract?

Mr. WHITE.—That is objected to as leading.

A. No, I should not.

Mr. TOWNSEND.—That is all.

Cross-examination.

(By Mr. WHITE.)

XQ. 1. What is the purpose of binding the carbon sheet in a book of this character?

A. Well, I don't know how to answer that question. The purpose of binding it in there is to hold it, I suppose.

XQ. 2. And would you say that any means which would hold it there you would consider as a means of binding it there?



(Testimony of Edward F. Crandall.)

A. No, I should not say that.

XQ. 3. You say the purpose of binding the carbon in the book is for the purpose of holding it there; and if you provide means for holding it there, that does not necessarily mean that it is bound there?

A. No, sir.

XQ. 4. What is the difference between the meaning of the word "hold" and the meaning of the word "bind"?

A. Well, I don't know. There are several different schemes or ways of holding carbon in there. For instance, can I illustrate?

XQ. 5. You may.

A. We sell what is known as a pen letter-book, which uses a carbon that has the same sort of an arrangement as this. It has a piece of metal that fastens in here, and holds it evenly there, and the binding itself holds the carbon in place.

XQ. 6. In that form of book is the carbon held in place and used in place?      A. No, sir.

XQ. 7. It is not bound in place?

A. No, sir.

XQ. 8. If you took a book of that kind and turned it upside down it would drop out, would it not?      A. No, it would not.

XQ. 9. What would prevent it from dropping out?

A. The pressure of the leaves here would bind the book.

XQ. 10. It is held in place then?      A. Yes.

XQ. 11. It is not bound in place?

(Testimony of Edward F. Crandall.)

A. Well, no; not bound in, not stitched in. It is simply held underneath there. The pressure of the book holds it in place.

XQ. 12. You sell different forms of binders to hold leaves in place? A. Yes, sir.

XQ. 13. What do they call them? Do they call them binders when they hold leaves together by friction pressure?

A. I could not answer that question, because I don't know. Some concerns call them folios, some call them binders. They catalogue them in different ways. They are manufactured by different concerns, and different concerns catalogue them in different ways.

XQ. 14. Is it not a fact that in your stock you have binders, what are called binders in catalogues, which bind the leaves together simply by friction or pressure? A. Yes.

XQ. 15. And those articles are known as binders because they bind the leaves together in that manner?

A. Well, they generally term them a loose leaf holder. They are not termed binders. Most of the manufacturers call them loose sheet holders.

XQ. 16. Isn't it a fact that a great many of them are called binders?

A. Oh, no; not that class of binders. They do where it is held by a ring; they are called binders.

XQ. 17. Are you familiar with the tortion binder? A. No, sir.

XQ. 18. You notice, Mr. Crandall, that I am re-

(Testimony of Edward F. Crandall.)

ferring to this book, Complainant's Exhibit "A," and I am lifting it by taking hold of the end of the carbon sheet alone, do you not?      A. Yes.

XQ. 19. And how am I able to lift the book in this manner when the carbon sheet is not bound in with the leaves of the book and so held in place?

A. Well, I suppose the pressure of the binding of the book holds it in place. Probably if you would pull it in this way it would come out. You are lifting it against the binding.

XQ. 20. It requires force to pull it out?

A. Yes.

XQ. 21. Now, in the ordinary use of a book of this character, Complainant's Exhibit "A," would the carbon fall out unless it was pulled out?

A. I don't exactly understand the question.

XQ. 22. In the ordinary use of a book of the character of Complainant's Exhibit "A," would the carbon be held in place by the means embodied in this Complainant's Exhibit "A" for that purpose?

A. Not unless it had some mechanical device to hold it there.

XQ. 23. I am directing your attention to this book and the means embodied in the same for holding the carbon in place, and I ask you, in the ordinary use of such a book, would not the carbon be held in place?

A. I don't exactly understand the question. As I say, it would be held in place if they used some mechanical device to hold it there, such as is used there, I should consider such a device to be holding the carbon in place.

(Testimony of Edward F. Crandall.)

XQ. 24. It binds it in position, does it not?

A. It don't bind it, no, sir; not what I would term binding. It does not bind it there.

XQ. 25. What do you understand by the term binding? A. Sewed in there.

XQ. 26. Where did you ever get the idea that "bound" meant "sewed"?

A. Well, I don't know. As I say, I don't believe that a loose-leaf book is a bound book, or a sewed book. We would not speak of a loose-leaf book as a bound book.

XQ. 27. Do you know whether in the use of these triplicate books and duplicate books parties using the same object to the carbons being loose and not bound in the book?

A. Oh, some of them prefer it bound, and some loose. We make it both ways.

XQ. 28. Why do they prefer it bound in a book?

A. It is a little easier to handle.

XQ. 29. In what way are they easier to handle?

A. Well, they don't handle the carbon every time. They turn the leaf over, you know. Of course, in a book like that, where the carbon is bound in, to work on the next leaf you must tear out the first leaf, you understand. Now, in a great many books where the original sheet would stay in the book you can't bind the carbon in because it would interfere with the next carbon copy. It is only once in a great while that we have to bind the carbon in the book.

XQ. 30. What do you suppose the purpose of the manufacturer of this book, Complainant's Exhibit



(Testimony of Edward F. Crandall.)

“A,” was, in so constructing the book and attaching the carbon with this piece of pasteboard in this way?

Mr. TOWNSEND.—We object to that question as calling for an opinion of the witness as an expression on the state of mind of the respondent.

A. I suppose the idea was to make it possibly a little more simple to handle the carbon, that is, not to have to take it out every time and replace it, if a man wanted to make a carbon copy.

XQ. 31. (By Mr. WHITE.) In order to accomplish such results does it make any difference whether the carbon is sewed in there or held in there by friction or held in there by staples or held in there by glue or held in there by any other means by which it might be held in place?

A. Well, with that loose-leaf carbon it would enable a man, if his carbon worked out sooner or later, he could get down to the next carbon and put in a new place without any trouble.

XQ. 32. You notice that there are a number of these carbons in this book, indicating that it was not contemplated that the carbon should be taken out and replaced by another. Is not that true?

A. I could not answer that question; I do not know.

XQ. 33. If this carbon here, being the first carbon, was designed to be replaced by another, this other carbon would not be placed in the book interspersed between a certain definite number of leaves throughout the book, thereby dividing it up into sections?

(Testimony of Edward F. Crandall.)

A. Before I answer that question, may I ask you a question?

XQ. 34. What is it? In explanation of any question that I asked?

A. No, it is an explanation. I want to know if that book was simply made for a sample or if it was made for an order?

XQ. 35. This book was made for an order.

A. Well, then, possibly you saw his specifications, what they called for, that there should be a carbon every so often.

XQ. 36. In other words, the user of this book intended to use the first carbon in the book with the bound sheets interposed between the first carbon and the second carbon?

A. I should say that that was the man's idea when he made it.

XQ. 37. It was the idea that he had in drawing up such specifications, to throw away the first carbon, after it had been used, with the sheets interposed between it and the second carbon, and then go on and use the second section of the book with the second carbon?

Mr. TOWNSEND.—That is objected to as being a mere hypothesis, asking him what the intention of the maker of the book was, and what the intention was of the contract on which the furnishing of these supplies was based. That is not a thing that this witness is supposed to know, what was required by the manufacturer when he furnished those books in that particular way.

(Testimony of Edward F. Crandall.)

A. I cannot answer that question as to why it was done. It may have been that the man didn't care to handle the carbon. A great many people object to handling carbon paper, because it soils their hands, and they order it put in with so many sheets between, either 25 sheets or 50 sheets to the carbon, and we bind the books in that way.

XQ. 38. (By Mr. WHITE.) As I understand you then, by binding or holding the carbon in place in this manner, it would obviate the necessity of handling the carbon and using the book in that manner—is that correct? And is that one of the purposes in so attaching the carbon to the book or holding it in place by this means?

A. I should think so.

XQ. 39. It is immaterial, is it not, what the specific means are for holding the carbon in place so long as the object desired is accomplished?

A. I don't know. I should think so. I should think so. I don't know anything about that.

XQ. 40. Would this book have any more efficiency if the carbon was held in place by glue? And I am now referring to Complainant's Exhibit "A." A. No, no more efficiency.

XQ. 41. Would it have any more efficiency if the carbon was held in place by staples? A. No.

XQ. 42. Would there be any more efficiency if the carbon was held in place by loose leaves in with the book? A. No.

XQ. 43. In all these questions I am referring to Plaintiff's Exhibit "A" which is before you.

(Testimony of Edward F. Crandall.)

A. Yes, that book there.

XQ. 44. Would you consider it an advantage to have the carbon held in place in these triplicate books rather than to have them loose as they are in some forms of this book?

A. Well, as I said before, the only advantage would be to keep the man from holding the carbon, to have them exempt from soiling their hands with the carbon. There is no advantage in it. I don't see any advantage in it myself.

XQ. 45. But of course you realize that a great many people differ with you as to certain advantages?

A. Oh, yes, certainly. We make books in any way that a man wants without any question as to the whys or wherefores.

XQ. 46. Do you personally use these triplicate books?

A. I use triplicate shipping-books, yes, sir.

XQ. 47. I mean, do you personally use these books in your ordinary business?

A. No, we use a duplicate order-book and duplicate estimate-books. The firm that I am employed by use duplicate shipping-books like any firm.

XQ. 48. Personally, you don't use these triplicate books—your firm? A. No, sir.

XQ. 49. So your idea as to the advantages or disadvantages of having the carbon attached is not based upon the actual experience that you have had?

A. No, sir.

XQ. 50. I should judge, then, that the opinions



(Testimony of Edward F. Crandall.)

of those who had actually used the book would be worth more in regard to the value of having the carbon attached than your own opinion in regard to that matter; is that not correct?

MR. TOWNSEND.—We object to that as being the mere guess of counsel.

A. I suppose so. Of course, I can't speak for the other man.

XQ. 51. Did you say that your firm carried any stock of the devices called binders which operated to hold loose leaves together by means of a cover held down in place by a spring?

A. We have loose sheet holders held with springs or rings or wire. We have one that is held there in place by wire. We have possibly a dozen loose leaf devices, some with strings and some with springs.

XQ. 52. As I understand it, some manufacturers of such devices as I have referred to, that is, the device containing a cover held in place by a spring, held down against the leaves by a spring, call them holders, and some manufacturers of the same article call them binders—is that correct?

A. No, I don't think I made that statement. I could not answer that without looking at the catalogues. Most of them, to the best of my recollection, call them loose sheet holders.

XQ. 53. How many of these triplicate books containing double carbon, or loose double carbon, does your firm sell a year?

A. Well, I could not tell without looking up my records. Of course, since the new Interstate Com-

(Testimony of Edward F. Crandall.)

merce ruling, the most of the books sold now we are compelled to use two carbons with. Formerly we used a tissue, a transparent tissue and a double carbon that showed through, you understand; but now the Interstate Commerce ruling has to be complied with, as I understand it, and on all Interstate Commerce roads they are compelled to use the three sheets; but still, on roads that are not Interstate Commerce roads and on coasting schooners and on steamers running up the river they still use the double side carbon.

XQ. 54. As I understand it, these triplicate books which you put on the market since the Interstate Commerce Act went into effect, in them you use and are compelled to use a semi-carbon instead of one double carbon, on account of the fact that the loose carbon is used. Is that correct?

A. We have books that we sell that we use two carbons with.

XQ. 55. Why do you use two carbons instead of one double carbon?

A. Well, we sell them because we sometimes have call for the book.

XQ. 56. Is it not a fact that two carbons in such a book, that is, the two carbons being used, are more convenient to handle than the single double-carbon, and that it is for that reason that the trade, or your trade, calls for two carbons?

A. No, I can't say that. I think the reason we do it is probably to push the sale of that book. It is a book that does not conflict with any patents, or

(Testimony of Edward F. Crandall.)

anything we know of; and if a man wants a shipping-book, we sell him that book.

XQ. 57. As I understand it, in that book you can either use a loose double carbon, or two semi-carbon sheets. Is that correct?

A. No, you cannot use a double carbon in that book. You can't use a double carbon.

XQ. 58. Why can't you use a double carbon in such a form of book?

A. Because the middle sheet is not transparent. As I said, the new Interstate Commerce ruling compelled us to use two or three sheets of semi or opaque sheets.

XQ. 59. Does not the Levison triplicate book use the double-faced carbon, and does not that book, when used, enable one to comply with such Interstate Commerce Act?

A. I guess so. I don't know. I suppose so. Mr. Levison sells his books right along, and he only uses a double carbon.

XQ. 60. So by the peculiar construction of his book, he is able to use one double carbon, whereas by reason of the construction of your book you are compelled to use two semi-carbon sheets. Is that correct?

A. I think so. That is, that applies only to the roads, where the Interstate Commerce law affects them. It does not apply to shipping up and down the Coast.

XQ. 61. When did you first commence selling these books containing the two semi-carbonized

(Testimony of Edward F. Crandall.)

sheets just referred to?

A. Well, we have sold them for years.

XQ. 62. You have sold them prior to the Interstate Commerce Act?

A. Yes, we used to manufacture ten or fifteen years ago, before this transparent paper came on the market, we used to make our books the same as we make them now, using two carbons; but I should say about 10 or 12 years ago, this transparent paper came on the market which enabled us to put this transparent paper in there, and use one carbon.

XQ. 63. How many books of that character does your firm sell a year?

A. I could not answer, without looking up my record.

XQ. 64. How many books of that character are sold in San Francisco during a year?

A. I could not tell.

XQ. 65. How many books of the character described in the Levison patent in suit are sold by the Levison Co. each year?

A. I don't know.

XQ. 66. Do you know what proportion of the business of such character of books is done by Levison & Co.?

A. No, sir.

XQ. 67. Do you know what proportion of the business is done here by Levison & Co., since the introduction of their books?

A. No, sir.

XQ. 68. Do you know to what extent other books of this character have been driven out of the market by the introduction of the Levison covered by the patent in suit?

A. No, sir.



(Testimony of Edward F. Crandall.)

XQ. 69. Do you know whether or not a large proportion of other character of triplicate books have been driven out of the market by reason of the sale of the Levison book covered by the patent in suit?

A. I don't know. We sell as many books, I guess, as anybody.

XQ. 70. You say you don't handle the Levison book? A. No.

XQ. 71. I presume that is one reason why people don't apply to you for the Levison book?

A. We have bought the Levison book, but we don't keep it in stock for a stock-book.

XQ. 72. I understand that the Levison book sells for more money than do the other books which you handle. Is that not the fact?

A. I don't know what it sells for. Our book sells for a dollar. I don't know what that sells for.

XQ. 73. Did you purchase these triplicate books referred to by you—do you purchase them or do you manufacture them?

A. We purchase them, I guess you would call it. We have them manufactured for us.

XQ. 74. Isn't it a fact that you are able to purchase such a character of book cheaper than you are able to purchase the Levison book?

A. I don't know. I never inquired from Mr. Levison about the price of the book. He makes a regular discount, a certain discount on regular stock-books, regular stock orders that we get. We turn them over to him whenever we get an order for books

(Testimony of Edward F. Crandall.)

of his class, we turn them over to him and he fills it, and allows us a certain discount.

Mr. WHITE.—Take the witness.

Redirect Examination.

(By Mr. TOWNSEND.)

RDQ. 1. You just stated, Mr. Crandall, that you didn't know whether Levison's book had driven all the other triplicating books out of the field. Do you believe that all the other triplicating books have been driven out of the field by Levison's?

Mr. WHITE.—We object to that question as immaterial and leading.

A. I don't think I said that. I know his book has not driven all the other books out of the field.

RDQ. 2. State if you know how long to your knowledge triplicating books have been in use?

Mr. WHITE.—The question is objected to on the ground that it is asked for the purpose of anticipating the patent in suit and is incompetent on the ground that the name of this witness as one being familiar with the invention covered by the patent in suit is not set up in the answer as provided by section 4920 of the Revised Statutes; and on the further ground that no proper foundation has been laid; and on the further ground that the question is indefinite as to the specific construction of the book referred to.

A. As far as I remember, it is twenty years.

Mr. WHITE.—I move to strike out the answer of the witness on the grounds stated in the objection, to wit, that the name of the witness is not set up in

(Testimony of Edward F. Crandall.)

the answer as the user of the invention covered by the patent in suit, or as a person having knowledge of such invention; and I give notice to counsel that we will renew this motion at the final hearing.

RDQ. 3. (By Mr. TOWNSEND.) You have stated that manifolding books with bound and loose carbons have been in use for a long time?

Mr. WHITE.—We object to that question as indefinite and uncertain as to the character of the book referred to, and on the grounds stated in the objection to the previous question.

A. As far as I can remember.

RDQ. 4. (By Mr. TOWNSEND.) Is that distinction, bound and loose carbons, recognized in the trade?

Mr. WHITE.—We object to that as not being proper redirect examination; also as leading.

A. It is.

RDQ. 5. (By Mr. TOWNSEND.) When you testified as to the advantages and disadvantages of loose leaves and bound leaves, what was the basis of that answer?

Mr. WHITE.—We object to that as not proper redirect examination.

A. I don't understand the question.

RDQ. 6. (By Mr. TOWNSEND.) You stated that you did not use the triplicating book personally, but I understand in your previous examination that you stated that you had been in the manufacturing department where these books were made. Is that true?      A. Yes, sir.

(Testimony of Edward F. Crandall.)

RDQ. 7. And is your knowledge and experience of these things such that it is possible to gain from the orders that have come through from your customers, a knowledge of this class of books?

Mr. WHITE.—We object to that as grossly leading, and suggesting to the witness the answer that he is to make.

A. As I say, we bind all books just as our customers want. If a man orders the carbons bound in, we bind them in. If he orders the carbons loose, we give him loose carbons.

RDQ. 8. (By Mr. TOWNSEND.) Will you state what proportion of your customers ask for fixed carbons with triplicate sheets, and what proportion ask for loose carbons in triplicate sheets?

Mr. WHITE.—We object to that as immaterial; and further, that no proper foundation has been laid.

A. Probably 1 per cent want the carbons bound in the book.

RDQ. 9. (By Mr. TOWNSEND.) In your testimony on cross-examination, referring to Exhibit "A" of respondent's device, counsel suggested that the use of a series of carbons necessarily presupposed the using up of the record sheets for that carbon. I will ask you, is it likely that in a book such as is shown by exhibit "A," that the carbon may become torn out?

Mr. WHITE.—We object to that on the ground that no proper foundation has been laid; this witness having testified that he has not used these books



(Testimony of Edward F. Crandall.)

and that he has had no experience with them, therefore he is not competent to answer the question.

A. One reason is, that the carbon becomes torn, and worn out; torn or worn out. There are different grades of carbon. Of course, one will last longer than the other.

RDQ. 10. (By Mr. TOWNSEND.) What occurs when the carbon is worn out or torn?

A. You can't get your copy.

RDQ. 11. What is desirable in a case of that sort?

Mr. WHITE.—We object to that as immaterial.

A. What is desirable?

RDQ. 12. (By Mr. TOWNSEND.) Yes, what is desirable in a case of that sort?

Mr. WHITE.—We object on the further ground that it is not redirect examination.

RDQ. 13. (By Mr. TOWNSEND.) Is it desirable to replace that carbon?

Mr. WHITE.—We make the same objection; also that it is leading.

A. Yes, you would have to put a new carbon in it.

RDQ. 14. (By Mr. TOWNSEND.) Does respondent's book, exhibit "A" there, permit that?

Mr. WHITE.—The question is objected to as incompetent, irrelevant and immaterial, and on the further ground that it is not redirect examination.

A. It does.

Mr. TOWNSEND.—That is all.

(Testimony of Edward F. Crandall.)

Recross-examination.

(By Mr. WHITE.)

RXQ. 1. You say about one per cent of your customers called for these triplicate books with the carbon bound in?

A. I should say about that. Of course, I can't remember off hand. It is very seldom that we have a call for carbon bound in the book. Very, very seldom.

RXQ. 2. What do you do with such orders?

A. Fill them.

RXQ. 3. When did you last make a triplicate manifolding book with the carbon bound in?

A. I could not answer. That I don't know.

RXQ. 4. With the triplicate carbon bound in that book, so that you had a double carbon?

A. I could not answer that. I don't remember.

RXQ. 5. To whom did you sell such a form of book?

A. I could not answer that question. I can't remember. We sell to everybody in San Francisco; not everybody, but to a great many firms in San Francisco.

RXQ. 6. Is it not a matter of fact that your firm never did make a triplicate manifold book with double carbons bound in?

A. No, sir, it is not. We do make them. That is, we have taken orders for them. We don't manufacture the books, you know.

RXQ. 7. But you turn those orders over? To whom do you turn them over?

(Testimony of Edward F. Crandall.)

A. To different binders.

RXQ. 8. Can you name a single firm in town to whom you ever turned over an order for a triplicate manifolding book having the double carbons bound in, which order was filled?

A. Yes, we have turned those over to Mr. Levison.

RXQ. 9. Isn't it a fact that you never turned those orders over to any other firm but Mr. Levison?

A. No, we have turned those orders over to other binders.

RXQ. 10. Name some of those other binders.

A. Possibly Mr. Kitchen, or Mr. Malloye, or Mr. McIntyre. They all do work for us.

RXQ. 11. You say you have turned over those orders to one of those parties for triplicate manifolding book with the double carbon bound in?

A. To the best of my recollection I have. I could not specify the time, though, that was done. As I say, we have had very little call for that class of books.

RXQ. 12. Do you have any personal recollection that any of these firms mentioned by you ever filled such an order and delivered to you triplicate manifolding books with double carbons bound in?

A. No. Probably I would have to go over my records to see. I don't know whether we have taken any such orders since the fire or not. Of course, previous to the fire we did so.

RXQ. 13. Do you have any present recollection of ever having such an order as that prior to the fire?

(Testimony of Edward F. Crandall.)

A. Not lately.

RXQ. 14. I don't want you to rely upon your imagination. I want to know whether you have any present recollection or memory of such an occurrence.

A. No, I could not tell you of any particular one. I know we have made books with carbons sewed in, or bound in the books, but when it occurred, I cannot tell you.

RXQ. 15. In these sheets used in these loose leaf binders or holders, is there not a statement on one end of the sheet, or is there not a statement, that that sheet, that end, is to be bound in?

A. No, I don't think so.

RXQ. 16. In regard to such loose sheets which are not to be held together by these various binding devices, is it not customary in the trade to refer to one edge of the sheet as the binding edge?

A. It is. They generally leave a margin there for that purpose.

Mr. WHITE.—That is all.

Redirect Examination.

(By Mr. TOWNSEND.)

RDQ. 1. How many books have you ever ordered from Mr. Levison?

A. At one time or altogether?

RDQ. 2. Yes.

A. Oh, possibly a gross of books.

RDQ. 3. What were the circumstances leading to that order?

A. The main reason was, if I can remember right,



(Testimony of Edward F. Crandall.)

shortly after the fire we had a demand for shipping-books. We had placed our order in the Eastern market for shipping receipt-books and they had not arrived, and as Mr. Levison had some, we bought them from him.

RXQ. 1. (By Mr. WHITE.) Your firm does not make a specialty of manifolding books, does it? It simply carries a line of stock of that kind in connection with a large line of other articles?

A. Yes, sir. We try to carry anything that is called for that we can make any money in.

**[Testimony of Frederick E. Maynard, for Defendant.]**

Examination-in-chief of FREDERICK E. MAYNARD, called for defendant, sworn.

(By Mr. TOWNSEND.)

Q. 1. Please state you full name, age, residence and occupation.

A. Frederick E. Maynard; my residence is Berkeley. I may say that I devote my time as an occupation exclusively to the preparation and prosecution of applications for patents, before the Patent Office.

Q. 2. How long have you been engaged in Patent Office practice, and what has been the nature of that business?

A. Ten years; and the nature of the business has been such as that of all other attorneys; the preparation of drawings and specifications from models, sketches, and frequently verbal descriptions of inventions as presented to the office by inventors.

(Testimony of Frederick E. Maynard.)

Q. 3. Are you familiar with drawings and the reading of drawings?

A. My time is mostly occupied in the making and reading of drawings.

Q. 4. And have you had experience in the preparation of specifications? A. I have.

Q. 5. And in drafting the claims?

A. I have.

Q. 6. Are you familiar with the drawings relating to the manufacture of manifolding books?

A. I am.

Q. 7. And to patents relating to the same?

A. I am.

Q. 8. Have you made any examination along that art? A. Frequently.

Q. 9. I show you a patent to Heman G. Barlow and John B. Barlow, device for manifolding and copying, No. 297,556, April 29, 1884, and ask you if you understand the drawings, description and construction therein shown and described?

A. I do.

Q. 10. I meant first to ask you if you have read and examined that particular patent?

A. I have.

Mr. TOWNSEND.—We ask to have that introduced in evidence, and marked as an exhibit. (Marked Defendant's Exhibit No. 1.)

Q. 11. I show you a patent to G. E. Doughty, No. 612,197, dated October 11, 1898, for manifold book, and ask you if you have read and understand that patent?

(Testimony of Frederick E. Maynard.)

A. I have read it, and I understand it.

Mr. TOWNSEND.—I introduce that in evidence as Defendant's Exhibit No. 2. (So marked.)

Q. 12. I show you a patent to A. Abraham, No. 634,438, dated October 10, 1899, for manifold sales-book, and ask you if you have read that patent and understand the description and drawings therein?

A. I have read it, and do understand it.

Mr. TOWNSEND.—I offer that in evidence, and ask to have it marked Defendant's Exhibit No. 3. (So marked.)

Q. 13. I show you a patent to H. P. Brown, duplicating pad or sheet, No. 589,372, dated August 31, 1897, and ask you if you have read that patent and understand the description and drawings therein?

A. I have read the patent, and do understand it.

Mr. TOWNSEND.—I offer that in evidence, and ask to have it marked Defendant's Exhibit No. 4. (So marked.)

Q. 14. I show you a patent to Alexander Levison, No. 694,103, dated February 25, 1902, for manifold book, and ask you if you have read that patent, and understand the description and construction therein shown and described?

A. The patent to Levison? I have read it, and do understand it.

Mr. TOWNSEND.—We offer that in evidence, and ask to have it marked Defendant's Exhibit No. 5.

Mr. WHITE.—We object to it as incompetent, ir-

(Testimony of Frederick E. Maynard.)

relevant and immaterial. (Marked Defendant's Exhibit No. 5.)

Q. 15. (By Mr. TOWNSEND.) Mr. Maynard, have you read and do you understand the patent to E. J. Perry, reissue No. 11,547, dated June 9, 1896, for carbon copying manifold sheet or book, a copy of which I now show you?

A. Yes, I have read the drawings and understand the specification.

Mr. TOWNSEND.—I offer this in evidence and ask to have it marked Defendant's Exhibit No. 6. (So marked.) I introduce in evidence as Exhibit No. 7, patent to Rengough, No. 553,503, dated January 28, 1896. I have not the patent with me, but will produce it later, and ask when it is supplied, to have it marked Defendant's Exhibit No. 7.

Q. 16. I show you a paper and ask you if you have ever read it and if you understand what it is—if you understand its contents?

A. This appears to be a copy of the file wrapper of the reissue letters patent of Alexander Levison, No. 12,005 granted July 1, 1902, for improvement in manifold books, which I have read and understand.

Mr. TOWNSEND.—I wish to introduce in evidence the certified copy of file wrapper just referred to, and ask that it be marked Defendant's Exhibit No. 8. (So marked.)

Q. 17. I show you a specimen triplicate receipt-book in blank, and ask you if you know what that is, what it appears to be.

A. I should state that this appears to be a model



(Testimony of Frederick E. Maynard.)  
representing the Barlow patent.

Q. 18. The Barlow? Do you refer to Exhibit 1?

A. Exhibit No. 1.

Q. 19. Taking the Barlow Exhibit No. 1 and comparing it with the model before you, will you state whether or not that is the correct representation, and, if not, wherein it differs in any respects?

A. This is a model representing the Barlow patent in all respects, except that it is not printed; in having a plurality of duplicate recording sheets and a double carbon loose in the book, not bound.

Q. 20. I asked you wherein it differed, if at all, from the device of the patent?

A. There is no difference.

Q. 21. Now, the difference further than that first particular that you have spoken about, that this was a blank book and the other was a printed book—

A. Yes, I answered that.

Mr. TOWNSEND.—I offer in evidence this model just referred to, and ask that it be marked Defendant's Exhibit No. 9. (So marked.)

Q. 22. I show you another model, Mr. Maynard, and ask you if you recognize what that is?

A. That is a manifold sales-book, comprising a cover and a plurality of triplicate recording leaves.

Q. 23. By referring to any of the patent exhibits on file, does that correspond to any of them?

A. It does, precisely, in principle, but the detail of construction is somewhat different, this being a crude model of the patent.

Q. 24. Which patent do you refer to—just take

(Testimony of Frederick E. Maynard.)

a look at the patents?

A. The Doughty patent.

Q. 25. Exhibit 2?           A. Exhibit 2.

Q. 26. State wherein this model referred to differs, if any, from the Doughty patent, exhibit 2.

A. There is a difference in the detail construction of the parts, in that the frame which connects the movable carbon to the cover in the patent is represented as being of wire or suitable metallic structure, whereas in the model the frame is merely stiff cardboard used in lieu of the wire frame of the patent.

Q. 27. Is there any difference in operation between the exhibit model and the design of the drawing of Doughty?

A. The operation is the same. I might even go back to the previous question and state that further; I notice that the clamps are not precisely the same.

Q. 28. You are referring, then, to the clamp holding the pad in.

A. The clamp holding the pad to the cover, there being some difference in detail of construction in that member.

Q. 29. State whether or not the carbon is held in substantially the same manner as in the Doughty patent, exhibit 2.

A. It is held in substantially the same manner. It is held by clamps which vary in detail only from the Doughty patent.

Q. 30. What corresponds to the clamps of the

(Testimony of Frederick E. Maynard.)

Doughty patent holding the carbon in the model?

A. The carbon in the Doughty patent is held by a small clip, which is carried at the end of the frame "D" of the patent, whereas in the model exhibited the carbon is held to the frame by simple paper fasteners.

Q. 31. How is the frame "d" in the Doughty patent connected to the back of the cover "A" in the patent?

A. I should say that it was flexibly connected.

Q. 32. How is it in the model?

A. Also flexibly connected.

Q. 33. Would you say "flexibly" or hingedly?

A. Well, hingedly, also.

Mr. TOWNSEND.—I offer the model just referred to in evidence, and ask that it be marked Defendant's Exhibit No. 10. (So marked.)

Q. 34. I show you another model, Mr. Maynard, and ask you if you understand that, and if you can tell by reference to any of the patents already introduced in evidence, what that purports to be a model of?

A. This is a model representing the patent to Abraham, for a manifold sales-book, having a plurality of recording sheets.

Q. 35. To Abraham, Exhibit 3?

A. Abraham, Exhibit 3.

Q. 36. State wherein that differs, if any, from the design in the patent Exhibit 3, to Abraham.

A. There is no difference in any practical extent; merely that the Exhibit 3 shows ruled record sheet

(Testimony of Frederick E. Maynard.)

in some views.

Q. 37. Otherwise, is the model a correct representation?

A. The model is a correct representation of the patent exhibited in exhibit No. 3.

Mr. TOWNSEND.—I offer in evidence this model and ask that it be marked Defendant's Exhibit No. 11. (So marked.)

Q. 38. I show you Defendant's Exhibit "A," which is a book alleged to infringe the patent sued on, a book built by the respondent, and ask if you understand its construction and mode of operation?

A. I do.

Q. 39. Have you read, and do you understand the claims and the construction embodied in those claims of the reissue patent to Levison sued upon?

A. I have.

Mr. TOWNSEND.—I ask counsel, for the sake of a clear understanding of the issue, if he maintains an infringement on any more than the claims referred to in his examination-in-chief, being Claims 2, 3, 4 and 5? In other words, do you claim any infringement in the present case on Claim 1?

Mr. WHITE.—No, we do not claim an infringement on Claim 1.

Q. 40. (By Mr. TOWNSEND.) Take Claim 2 of the patent sued on, the Complainant's Exhibit "B," and compare it with the structure of exhibit "A" which you have just inspected; I will ask you if the structure of exhibit "A" combines a combination of the elements of that claim? A. No.



(Testimony of Frederick E. Maynard.)

Q. 41. In what respect does it not do so?

A. The respondent's book comprises a removable carbon sheet, and the flexible flap or stub-card flexibly or hingedly secured to the cover of the book. The carbon in exhibit "A" being removably inserted into the book in such a manner that it may be at any time removed from one position and placed into another, without destroying the utility of the carbon, and by using the removable stop-card the removable carbons may be inserted at such points throughout the book, irrespective of the number of leaves above the carbon, and the stop-card inserted at any point in the body of the book, to prevent transfer of the impression from the sheet above.

Q. 42. Is the carbon in the exhibit "A" bound into the book?      A. It is not.

Q. 43. Is the stop-card that you referred to bound into the book?      A. It is not.

Q. 44. This claim calls in the last three lines: "Said stubs and one side of each carbon sheet and backing being all bound together, to form a book, substantially as described." Do you find that structure present in respondent's device?

A. I do not.

Q. 45. Now, reading Claim 3, I will ask you if you find the defendant's book to contain the combination of elements of that claim?      A. No.

Q. 46. In what respect do you find that it has not the combination of elements of Claim 3?

A. For the reason that the carbon is not permanently bound at any point in the book.

(Testimony of Frederick E. Maynard.)

Q. 47. Now, reading Claim 4, I will ask you if the defendant's device as shown in exhibit "A" embodies the combination of elements of that claim?

Mr. WHITE.—The question is objected to as grossly leading, in the same manner that all the previous questions propounded to this witness along this line of inquiry have been grossly leading.

A. Complainant's Exhibit "A," or respondent's book, does not embody the elements of Claim 4.

Q. 48. (By Mr. TOWNSEND.) In what respect do you find such to be the case?

A. The respondent's book does not have the carbon bound permanently into the book with the stubs of the record sheets.

Q. 49. What does the concluding phrase convey to your mind, "substantially as described" in Claim 4?

Mr. WHITE.—We object to that question as usurping the province of the Court in construing and determining patent specifications, this witness being put on the stand as an expert to describe the construction and operation of these various devices, and not to construe the patent.

A. This claim, as well as preceding claims, can only be followed by a skilled mechanic in referring to the specifications throughout, and to the drawings as indicated in the claims.

Q. 50. (By Mr. TOWNSEND.) Referring to this specification, what do you find as to the manner of binding referred to, where he says, "Said stubs

(Testimony of Frederick E. Maynard.)

and one side of each carbon sheet being all bound together to form a book”?

Mr. WHITE.—The question is objected to as immaterial, the patentee, not being required under the law to specify all the methods of carrying out his invention, the law only requiring him to point out the best method of embodying the invention of the patent.

A. The specification specifically states that the book embodies the carbon or a plurality of carbons interspersed throughout the thickness of the book, and said carbons and the record sheets and backings also are placed at suitable intervals between the pages, to be all bound together.

Q. 51. (By Mr. TOWNSEND.) Referring to page 1 of the Levison patent sued on, lines 41 to 54, inclusive, I call your attention to the following matter: “The record sheets and the cardboard backings are attached to stubs 7 along lines of perforations 8, so that they can be readily detached from said stubs, and said stubs and one side of each carbon sheet are all bound together to form a book.” Looking at the respondent’s book, exhibit “A,” do you find any record sheets and cardboard backings, attached to stubs along lines of perforation?

Mr. WHITE.—That is objected to as leading.

A. No.

Q. 52. (By Mr. TOWNSEND.) State whether or not you find any cardboard backings in the respondent’s books attached to stubs along lines of perforation so that they can be readily detached



(Testimony of Frederick E. Maynard.)

from the stubs.

Mr. WHITE.—I object to that as leading.

A. I do not.

Mr. WHITE.—I move to strike out the answer on the ground stated in the objection.

Q. 53. (By Mr. TOWNSEND.) State whether or not you find said stubs and one side of each carbon sheet all bound together to form a book in respondent's construction.

Mr. WHITE.—We make the same objection.

A. I do not.

Mr. WHITE.—I move to strike out the answer on the ground stated in the objection, and I hereby notify counsel that I will renew all these motions at the final hearing.

Q. 54. (By Mr. TOWNSEND.) Reading Claim 5, Mr. Maynard, I ask you whether this book shown in exhibit "A" contains a combination of elements of that claim?

Mr. WHITE.—We make the same objection.

A. No, I don't find the elements.

Mr. WHITE.—We give notice of the same motion.

Q. 55. (By Mr. TOWNSEND.) And for what reason?

A. The book of the respondent, exhibit "A," does not comprise a carbon bound into the body of the book, at the stubs, but provides a removable carbon which may be taken from any place and replaced in another place between the leaves, at will. This capacity is not apparent in the patent of Levison without destroying the feature in the patent,



(Testimony of Frederick E. Maynard.)

for the reason that if the Levison carbon is removed, it must be torn from its binding and replaced without having any means for securing it or holding it into the book.

Q. 56. Taking exhibit 1, Mr. Maynard, the patent of Barlow, and also having before you exhibit 9, the model of the Barlow book, I ask you to describe that construction showing the patent and model.

A. The carbon of the exhibit No. 9 and showing the patent exhibit No. 1, might be designated as being and is a removable carbon, carbonized on both sides. The carbon is substantially equal or is equal to two of the sections of the recording leaves, which are both shown in the model and in the patent as being in three sections.

Q. 57. Are those sections separable?

A. They are, along the lines of perforation.

Q. 58. And their relative proportions, what would you say as to that?

A. The relative proportions of the outer two members are substantially the same.

Q. 59. Could you say whether or not those leaves are divided in three parts, what you would call substantially equal, separable parts?

A. They are. These leaves further being bound into the book, and separable along the line of perforation from the contiguous stub of the book into which the cover is bound.

Q. 60. Taking Claim 2 of the Levison patent sued on, I ask you, do you find the device of the Barlow patent, exhibit 1, model exhibit 9, to contain "a

(Testimony of Frederick E. Maynard.)

double carbon sheet''?           A. I do.

Q. 61. State whether or not it contains "a plurality of recording sheets."           A. It does.

Q. 62. State whether or not it contains "a cardboard backing" or the equivalent thereof.

A. Yes.

Q. 63. What do you call the equivalent of a cardboard backing?

A. The cover in this case, of exhibit No. 9.

Q. 64. Which cover?

A. The outside cover, the top cover.

Q. 65. Which cover?

A. The outside, top cover.

Q. 66. In what manner does that top cover form a cardboard backing?

A. The cover as here shown does not form a cardboard backing in the sense used in the Levison patent; it merely forms a cover for the book generally.

Q. 67. What function does the opposite cover perform, if any?

A. The bottom cover would form a support for the leaves of the book when held in the hand open; the leaves of the record sheets would be supported when the user was inscribing in the book.

Q. 68. What is the purpose in the Levison patent of his cardboard backing referred to?

A. The purpose is substantially the same.

Q. 69. State whether or not the Barlow book and patent before you contains a record sheet, shows a record sheet outside of the stubs, being divided

(Testimony of Frederick E. Maynard.)

into, three substantially equal, separable parts, or not?      A. It does.

Q. 70. State whether or not that book and exhibit of Barlow shows "a carbon extending the width of two of said parts."      A. It does.

Q. 71. State whether or not the Barlow book and patent shows the "record sheets having stubs to which they are attached along lines of perforation."

A. Exhibit No. 9 and the Barlow patent both show these stubs to which the leaves are connected along the line of perforation; and I might state also that the backing is securely bound to these stubs, but the carbon is removable or loose.

Q. 72. State whether or not "the stubs and one side of the carbon sheet and backing are bound together to form a book" in the Barlow patent.

A. They are.

Q. 73. Is the carbon sheet in that book bound in?

A. It is not.

Q. 74. You have read the Barlow book and the patent in conjunction with the claim, and you have just compared the Barlow book and patent with the claim which you have just referred to, and you state that you find all the elements in the order and sequence that you give them, except that the carbon is loose in the Barlow book, and is bound in the Levison book. I ask you if that is correct?

A. Yes, and it would certainly not take the services of any skilled mechanic to bind that in, as the want or the utility of such a binding might be manifest to any person requiring such a book; and no in-

(Testimony of Frederick E. Maynard.)

genuity was required of a skilled mechanic to bind this carbon in.

Q. 75. Taking Claim 3 of Levison, and comparing it with the Barlow patent and book which we have just been talking about, and I will ask you whether or not you find the following elements in this Claim 3 of the Levison patent: "A manifold book." State whether or not the Barlow book is a manifold book.

A. It is a triplicate manifold book.

Q. 76. "Comprising in order a double carbon sheet." State whether or not you find a double carbon sheet in the Barlow. A. I do.

Q. 77. Do you find a plurality of recording sheets, the record sheets outside the stubs being divided into three substantially equal separable parts? A. I do.

Q. 78. State whether or not you find the carbon sheet extending the width of two of said parts.

A. I do. There is an apparent discrepancy in the drawing, but the specification precisely defines that the carbon sheet extends over two of such sections.

Q. 79. By that you mean the drawing in Figure 1, representing the carbon is not to scale?

A. It is not drawn to scale on the recording sheets in the drawing.

Q. 80. I call your attention to Figure 2 of the Barlow patent and ask if the representation there relatively of the carbon to the record sheet is correct or not? A. Yes, it is correct.



(Testimony of Frederick E. Maynard.)

Q. 81. State whether or not the Barlow patent and book that you have before you shows said recording sheets having stubs to which they are attached along lines of perforations.

A. They do, both the patent to Barlow, exhibit 1, and the model exhibit No. 9.

Q. 82. State whether or not the Barlow shows said stubs, and one side of the carbon sheet being all bound together to form a book.

A. The carbon cannot be said to be bound into this book, but is removable, which has been found to be a disadvantage by the users of the book for the reason that they readily become loose and crumpled; and the drivers of wagons sometimes lose the carbons when they are loose, because the wind will blow over the pages of the book and carry the carbons away.

Q. 83. Now, having compared Claim 3 with the book of Barlow in the patent, state just what difference you find between the Barlow book patent and the combination of elements of the claim I have just read?

A. The elements of the claim are all present, and the leaves are divided into three substantially equal parts.

Q. 84. You don't understand my question, just the point of difference I am asking; not the similarity.

A. The greatest point of difference is that the carbon is not bound permanently into the book.

Q. 85. Is there any other point of difference?

(Testimony of Frederick E. Maynard.)

A. The carbon sheet does not have a stub which is bound into the book along with the stubs of the leaves.

Q. 86. Is that the only point of difference?

A. The backing.

Q. 87. Claim 3 does not call for any backing. I simply asked if there is any point of difference or not, between the Barlow and the claim I have just read of Levison, other than the fact that the Barlow book has a loose carbon and the Levison combination has a fixed carbon—is there any difference other than that? In other words, is it not a fact, if I understand from what you have said, that that is the only difference?

Mr. WHITE.—The question is objected to as grossly leading, informing the witness what he is to say, which is extremely reprehensible in view of the fact that this witness is called as an expert.

Mr. TOWNSEND.—I will withdraw the question and ask that the previous question be read to the witness. (Questions 83, 84, 85, 86, 87, and the answers thereto, read.) Now, I ask that the latter part of my question be omitted, as I do not intend to ask leading questions.

A. I should say that this is the only difference in the books.

Q. 88. Reading Claim 4 and comparing it to the Barlow book and Barlow patent before you, “A manifold book comprising in order a double carbon sheet,” I will ask you whether or not you find the Barlow book to be a manifold book with a double

(Testimony of Frederick E. Maynard.)

sheet?      A. I do.

Q. 89. State whether or not you find in the Barlow a plurality of recording sheets.      A. I do.

Q. 90. State whether or not you find each of said sheets outside of the stubs being divided into a plurality, not less than, three, of substantially equal separable parts.      A. I do.

Q. 91. State whether or not you find in the Barlow a carbon sheet extending the width of said parts, except the outermost.      A. I do.

Q. 92. State whether you find in the Barlow said recording sheets having stubs to which they are attached along lines of perforations.

A. I do find such.

Q. 93. State whether or not you find in the Barlow said stubs and one side of the carbon sheet being all bound together to form a book.

A. The carbon in the Barlow patent is not bound in the book.

Q. 94. State what point of difference, or points of difference, then, you find in the Barlow, between the Barlow and claim 4, which I have just read.

A. The only difference in the requirements of the claim and the patent to Barlow, exhibit No. 1, and the book or model exhibit No. 9, is that the carbon is bound permanently into the book, as required in the patent to Levison.

Mr. WHITE.—We object to that part of the statement, because such is not the fact. (Question and answer read.)

The WITNESS.—I did not mean to state that the

(Testimony of Frederick E. Maynard.)

carbon was bound. I said the only difference I found in the two patents, that is the Barlow patent, exhibit No. 1, and the Levison patent book is, that the carbon is not bound into the book.

Q. 95. (By Mr. TOWNSEND.) Do you wish your previous answer corrected? A. I do.

Q. 96. Taking Claim 5, I will ask you to state whether or not the Barlow which we have been speaking of shows a manifold book comprising in order a double carbon sheet. A. I do.

Q. 97. State whether or not the Barlow shows a plurality of recording sheets, each record sheet outside the stub being divided into a plurality not less than three of separable parts, joined along lines of perforations.

A. I do find such recording sheets present in the Barlow.

Q. 98. I will read that again to you. State whether or not you find a plurality of recording sheets, each recording sheet outside the stub being divided into a plurality not less than three of separable parts, joined along lines of perforations.

Mr. WHITE.—The question is objected to as leading, and not within the line of inquiry. It is exceedingly objectionable. The question can be asked if the patent shows—the witness can be asked to compare each one of these claims with the Barlow patent and to point out the similarity and differences without counsel taking up the elements one by one, and suggesting to the witness to state whether or not the same is found in the Barlow book.



(Testimony of Frederick E. Maynard.)

A. I find in the Barlow patent that these recording sheets are divided into not less than three of separable parts, joined along lines of perforations.

Q. 99. (By Mr. TOWNSEND.) State whether or not the Barlow shows each part being not greater than the part next it, on the side toward the stub.

A. It does.

Q. 100. State whether or not the Barlow shows a carbon sheet extending the width of the whole of said parts, except the outermost.

A. The carbon sheet is so shown in the Barlow patent.

Q. 101. State whether or not said recording sheets *having* stubs to which they are attached along lines of perforations.

A. Yes. Stubs are provided in the Barlow patent to which the recording sheets are attached by lines of perforations.

Q. 102. State whether or not the Barlow shows stubs and one side of the carbon sheet being all bound together to form a book.

A. These stubs and one side of the carbon sheet in the Barlow patent are not bound together in the sense of the Levison patent.

Q. 103. What other difference, if any, do you find between the Barlow patent and the claim I have just read of the Levison?

A. I do not find any other difference than that the carbon is bound permanently into the book, as required by the Levison.

(Testimony of Frederick E. Maynard.)

Q. 104. In what case is the carbon bound into the book?

A. In the present case, the carbon is bound into the book.

Q. 105. What is the condition in the Barlow?

A. The Barlow carbon, designated as "F" in the patent, is not found bound into the book.

Q. 106. Taking up Doughty, exhibit 2, Mr. Maynard, and also taking up exhibit 10, reading Claim 2 of the patent sued on, I will ask you whether or not the Doughty patent is a manifold book?

A. Well, the Doughty patent is a triplicate manifolding book.

Q. 107. State whether or not the Doughty comprises in order a double carbon sheet.

A. Yes.

Q. 108. State whether or not it contains a plurality of recording sheets.

A. Yes; it does.

Q. 109. State whether or not the Doughty contains a cardboard backing, or equivalent.

A. It does.

Q. 110. In what respect?

A. In that the recording sheets are secured permanently to the backing along suitable stubs, or stubs as indicated, and the carbon in this patent may be said to—

Q. 111. Please read the question. (Question read.) You say that Doughty contains a cardboard backing or equivalent? Can you designate by reference to the Doughty patent drawings what

(Testimony of Frederick E. Maynard.)

element corresponds to a cardboard backing?

A. The member designated as "A" in figure 2 is represented as being a backing to which the recording sheets are secured.

Q. 112. State whether or not Doughty shows the recording sheets outside the stubs being divided into three substantially equal separable parts.

A. It does.

Q. 113. State whether or not the Doughty shows a carbon sheet extending the width of two of said parts. A. Yes.

Q. 114. State whether or not said recording sheets in the Doughty have stubs to which they are attached along lines of perforations.

A. They have.

Q. 115. Designate by numeral or other reference character those perforations, if they are shown by the Doughty patent.

A. The perforations are shown at c in Figure 2.

Q. 116. State whether or not the stubs in the Doughty and one side of the carbon sheet and backing are bound together to form a book.

A. Yes, the carbon in this case is bound with the leaves and backing to form a book.

Q. 117. In what way is the carbon bound in, in this case?

A. By means of the frame represented by d which carries the carbon and is hinged or flexibly connected at e to the back of the book.

Q. 118. In this case state whether or not you would say that the carbon c is bound into the stubs

(Testimony of Frederick E. Maynard.)  
of the leaves.

A. No, the carbon is not bound into the stubs of the leaves in this case, but is bound to the book by means of the frame d.

Q. 119. In order that the testimony may appear clear I will ask you to designate by reference characters—I will go, however, over the claim—the elements referred to. In reading the claim you stated that these various elements were present. Will you indicate by reference characters the double carbon sheet?

A. The double carbon is indicated by C.

Q. 120. Indicate the recording sheets.

A. The recording sheet is divided into a plurality of sections, the outer end of which is designated as b."

Q. 121. State the difference, then, between the patent of Doughty and that to Barlow with reference to the carbon.

A. The only difference here is that the carbon C of Doughty is secured, you might say, to the book; while in the patent of Barlow it is not secured in any way to the book.

Q. 122. I will ask you to read Claim 3 of the Levison patent in suit, and compare it with the device of the Doughty patent and model, and state whether or not you find the same elements present in the Doughty as are enumerated in Claim 3.

A. I find all of the elements present.

Q. 123. Will you state whether or not you find them in substantially the same combination?



(Testimony of Frederick E. Maynard.)

A. They are.

Q. 124. State what difference, if any, you find in the combination of elements of Claim 3 of the patent sued on and the Doughty device.

A. The only difference that I can see is that the carbon is movable respective to the several leaves B of the Doughty patent. What I mean by movable is, that it may be lifted to swing upwardly and away from the leaves, but is still connected to the book so that it is always secured to it, but not permanently secured in the sense that it is in the Levison patent.

Q. 125. In the Doughty would the carbon C fall on the underneath leaves always in the same position when the frame is dropped, or would it fall into a different position each time and have to be adjusted?

A. It would fall into the same position on the leaves.

Q. 126. In the Levison, state whether or not that would be the case.

A. The Levison patent does not provide means by which the carbons could be used in any other point in the book except upon the first leaf under the carbon.

Q. 127. Yes, but in lifting the Levison carbon and dropping it, what difference is there in the action of its lying out on that leaf from the lifting of the carbon in the Doughty and dropping it?

A. Well, they will both assume positions practically the same and covering two sections of the book.

(Testimony of Frederick E. Maynard.)

Q. 128. Will they fall naturally without any hand adjustment over those two sections mentioned?

A. They will fall over the two sections nearer the stub. The outer section of the leaf then being folded once inwardly over the outer end of the carbon, and then the leaves are again folded inwardly so as to form a fold in the carbon itself.

Q. 129. Taking Claim 4 of the Levison patent sued on, I ask you to read that claim carefully and compare it with the Doughty patent and device, and I ask you whether or not the elements of that claim are present in the Doughty device.

A. The several elements are present.

Q. 130. Do you find all the elements of that claim present in the Doughty device?

A. We find a double carbon and a plurality of recording sheets, each of these sheets being divided outside of the stubs into a plurality not less than three of substantially equal parts.

Q. 131. Are those parts separable?

A. They are separable along lines of perforations and the leaf as a whole is separable from the stub into which the leaves are bound to the cover.

Q. 132. State whether or not you find in the Doughty the carbon sheet extending the width of said part except the outermost.      A. I do.

Q. 133. State whether or not you find stubs and one side of the carbon sheet all bound together to form a book.

A. That is the only point of difference in the two patents, that the carbon is not bound by means of

(Testimony of Frederick E. Maynard.)

a stub with the remaining stubs of the leaves.

Q. 134. You are referring to Doughty?

A. Referring to the Doughty patent.

Q. 135. Referring now to Claim 5, I will ask you to read that claim and compare it to the Doughty patent. I will ask you if you find all of the elements of that claim present in the Doughty patent.

A. I do.

Q. 136. State whether or not you find those elements in substantially the same combination in the Doughty. A. They are.

Q. 137. Are there any differences between the combination in that claim? If so, please state them.

A. There is no difference in the combination of the elements, both employing carbon sheets and recording sheets, and in both cases the carbon sheet extends over two sections of the recording sheets, the carbon in both cases being double or carbonized on both sides.

Q. 138. I asked the witness if there were any differences between the Doughty and the combination of the elements in Claim 5, and if so, to please point out those differences.

A. I did not catch the word "differences." The difference present in the claim as a whole is that the carbons are not bound to the stubs of the leaves.

Q. 139. In each case?

A. In the Doughty case.

Q. 140. Comparing the device of the Doughty patent and the Levison device here as shown in his drawings, and described in his specifications, I will

(Testimony of Frederick E. Maynard.)

ask you if there is any new mode of operation in the Levison over the Doughty.

A. There is none.

Q. 141. I will ask you if the Levison book performs any new or different function from that performed by Doughty.

A. It does not, as it makes triplicate copies.

Q. 142. Is there any different way in folding the sheet over the carbon in the Levison from the manner shown in folding it in the Doughty?

A. The manner of folding the sheet is the same in each patent, that of the Levison and that of the Doughty.

Q. 143. State whether or not the book of Levison as shown in the patent drawings and specification of the patent sued on shows any new result from the Doughty.

A. There is no new result accomplished in the Levison patent that is not accomplished by the Doughty patent.

Q. 144. Referring to the Barlow patent device, I will ask you if the Levison patent and book performs any new or different function than that performed by the Barlow book. A. It does not.

Q. 145. What difference in the manner of folding the leaves of the Barlow and the leaves of the Levison are there, if any?

A. There is none—the leaves are folded in the same way.

Q. 146. What new result does the Levison book show, if it shows any, or what new result does it ef-



(Testimony of Frederick E. Maynard.)

fect over the device of the Barlow?

A. No new effect is accomplished.

Q. 147. State whether or, not Levison has any new or different mode of operation from that of the Barlow.

A. No, there is no difference in the operation of the two patents.

Q. 148. Referring to the Levison book shown in Complainant's Exhibit "A," I call your attention to his folding stop-card which we will mark, with the Court's permission, with the reference No. 2, and I will ask you if you find anything in the prior art as shown by the patents here introduced corresponding to that stop-card.

A. The same stop-card is used in the patent to H. P. Brown, exhibit No. 4.

Q. 149. What reference character in the patent corresponds to the stop-card No. 2 in exhibit "A"?

A. There is a stiff flap or stop-card which is flexibly connected to the cover or back of the book of the Brown patent, this stop-card lifting in the same manner as that shown in Claimant's Exhibit "A." Reference character D corresponds to the stop-card designated as "2" in the Complainant's Exhibit "A."

Q. 150. Are there any instances in the prior art as shown by the patents here introduced to-day in which there are leaves and carbons bound together into a stub in book form?

A. Yes: We have the patent to Abraham which shows the carbon D permanently bound to the stubs

(Testimony of Frederick E. Maynard.)

of the book. In exhibit 7 which is not at hand, according to the best of my recollection the carbon is also bound in.

Q. 151. Do you refer to the patent to Bengough, exhibit 7?

A. To the best of my recollection I do.

Q. 152. Taking exhibit 5, Mr. Maynard, of the Levison original patent No. 694,103, I will ask if you have read and understand that patent.

A. I do.

Q. 153. What is that patent?

A. The original patent granted to Levison, No. 694,103, is for a manifold book, and corresponds as I understand it, precisely with the subject matter and the drawings in the reissue patent.

Q. 154. No. 12,005?

A. Yes. There is no difference that I can find exists in the drawings in the two cases.

Q. 155. As I understand it, the reissue patent in suit is the reissue of the patent I have just asked you regarding. Is that true?

A. Yes, that is true.

Q. 156. Have you read the specifications of the original patent and the reissue of it here sued on?

A. I have read that closely.

Q. 157. Have you compared the specifications together? A. I have.

Q. 158. What is the invention involved in the original patent 694,103?

Mr. WHITE.—The question is objected to as usurping the powers of the Court in construing the

(Testimony of Frederick E. Maynard.)

patent and telling what this invention is. It is within the province of an expert to go on and compare the structures, pointing out their similarities and dissimilarities.

A. The invention is in the art of manifolding books, and as far as set forth in the specification, it consists in this: It states that the object of the invention is to provide a book—reading from the original patent No. 694,103, “The object of my invention is to provide a book of this character which shall be convenient in use, economical in the number of carbons required, which shall give secure protection against alterations and forgeries, and the sheets of which can be readily and conveniently placed on record after the impression has been taken.”

Q. 159. (By Mr. TOWNSEND.) I will ask you if you find any statement in that paragraph you have just read which you do not find anticipated with reference to the Doughty patent?

A. I do not.

Q. 160. What would you say in regard to the same question as compared with the Barlow patent?

A. I should say that the objects of the invention were thoroughly met in both patents. That is to say, the Doughty patent and the Barlow patent.

Mr. WHITE.—We move to strike out the answer of the witness on the ground that it is immaterial. If the objects of two or three inventions are the same, unless the inventions accomplish the objects desired.

Q. 161. (By Mr. TOWNSEND.) Can you state

(Testimony of Frederick E. Maynard.)

from the specification of this original patent what the improvement and invention was that Levison attempted to claim or to protect?

A. The patent, as far as I understand it, attempts to cover manifold books involving the use of double carbons, which is common in the art, and also involving the use of record sheets, which is notoriously common, particularly triple sheets, and also a portion of the claim refers to the binding of the carbons into the body of the book at the stubs, which is well known in the art as exhibited by the Abraham patent.

Q. 162. State whether or not the reading of those two patents, the original and the reissue, whether in your opinion, and from what you find in the reading matter, that the reissue is for the same invention or not, as described in the original.

Mr. WHITE.—The question is objected to as calling for a conclusion of the witness.

A. There is a difference in the body of the specification, and in the insertions, which insertions do not seem to pertain to the original patent; that is to say, that the original patent was apparently to my mind completely drawn, the drawings showing with such clearness that any ordinary mechanic could construct the book from the description furnished by the specification; that is, could construct a book from the patent No. 694,103; whereas in the reissue patent the same drawings apparently are used, the main body of the specification is the same with the exception of a few insertions which have been made,



(Testimony of Frederick E. Maynard.)

to wit: On line 41 of the reissue application I find the words, "outside the stubs" having been inserted, are not found in the original patent; and also the insertion of a whole paragraph is found in the reissue patent which introduces matter not previously mentioned in the original patent. That is the paragraph beginning with line 84 of the reissue patent and continuing down to line 98 of said patent.

Q. 163. State whether or not these insertions you speak of are new matter.

Mr. WHITE.—We object to that as calling for a conclusion of the witness.

A. They are new matter, because they do not assist or help in explaining the construction or the operation of the device. But merely define a specific form or shape or degree or size of the leaves of the book in the reissue patent.

Q. 164. (By Mr. TOWNSEND.) Please state again what is the first of these insertions that you refer to, and its position or line in the specification of the reissue patent.

A. The insertion referred to is found in the reissue patent on page 1 of line 41, and consists of the words "outside the stubs."

Q. 165. Where is the next insertion?

A. The other insertion or entry is the paragraph which has been inserted following line 83 of the reissue patent, down to and including line 98.

(Testimony of Frederick E. Maynard.)

Q. 166. Will you read that?

(It is stipulated that the defendant may have to and including March 15, 1909, in which to close its case.)

(Further hearing adjourned to Saturday, March 6, 1909, at 10 A. M.)

Saturday, March 6, 1909, 10 A. M.

Counsel appearing:

W. K. WHITE, Esq., of MILLER & WHITE,  
Solicitors for Complainant.

C. E. TOWNSEND, Esq., Solicitor for De-  
fendant.

Examination-in-chief of FREDERICK E. MAY-  
NARD, resumed.

(By Mr. TOWNSEND.)

Q. 167. At the close of your examination on last Saturday, Mr. Maynard, you were speaking of the insertions made in the reissue applications, and which insertions you state did not occur in the original patent, exhibit 5. Will you state again specifically, what changes have been made in the specifications of the reissue patent over the original Levison patent, exhibit 5?

Mr. WHITE.—The question is objected to as immaterial.

A. I find that in line 41 in the reissue patent No. 12,005, after the word "sheet" there has been inserted in the reissue patent the words "outside the stub 7." These words are not to be found in the original patent No. 694,103 at this point.

Q. 168. (By Mr. TOWNSEND.) Are they

(Testimony of Frederick E. Maynard.)

found anywhere in the original patent?

A. No, they are not. Further, in line 41 of the reissue patent No. 12,005, after the word "three" there has been inserted the phrase or words "substantially equal" and we find another insertion in line 83 in the reissue patent No. 12,005, a paragraph extending down to and including line 98 of said reissue patent. The subject matter of this paragraph is not to be found anywhere in the reissue patent. Do you wish the paragraph in the record?

Q. 169. Yes, sir.

A. The paragraph is as follows, reading from the reissue patent:

"It has been already stated that the three separable parts of each recording-sheet are substantially equal. They are not exactly equal, since it is preferable to provide the innermost part with an unprinted additional space or margin next the stub through which are punched the holes 9 to facilitate the filing of said part. Moreover, it is better to leave a small space between the edge of the sheet when folded and the line of perforations 8, as this renders it easier to fold the parts. With this exception the separable parts of each recording-sheet are of the same size and in general will contain identical printed matter thereon."

Incidentally I might state that the holes 9 referred to in this paragraph are not to be found on the reissue patent drawings. The reference characters 9 on these drawings simply leading to the line of perforation which is designated by the character 8.

(Testimony of Frederick E. Maynard.)

Q. 170. Do you find the words "three substantially equal" appearing anywhere in the original patent?

Mr. WHITE.—That is objected to as immaterial.

A. I do not.

Q. 171. (By Mr. TOWNSEND.) State whether or not you find such a statement justified by the drawings of the original patent.

Mr. WHITE.—We make the same objection.

A. No; the drawings of the original patent show by measurement that the divisions into which the recording-sheets are divided are not substantially equal, in that the innermost division of these recording leaves is considerably larger than the outer sections.

Q. 172. (By Mr. TOWNSEND.) State whether or not you find any statement in the original patent, speaking of "an unprinted additional space or margin next to the stub" or "moreover, it is better to leave a small space between the edge of the sheet when folded and the line of perforations 8, as this renders it easier to fold the parts." Those excerpts I have just read being between lines 81 and 95, page 1 of the reissue patent.

A. These excerpts are not to be found; and moreover, I might state that it is not seen that the leaving of an additional amount or enlarging the inner section of the leaf would be of any particular advantage or would assist in the folding of the part, inasmuch as the outer ends of these leaves are foldable along perforations or lines of perforations, and the mere



(Testimony of Frederick E. Maynard.)

length of the inner section does not facilitate this folding in any way.

Q. 173. Do the inserted parts which you have just spoken of last, and which I quoted in my previous question appear essential in any way to the full and complete understanding of the original patent?

A. No, it does not.

Q. 174. Do any of the other insertions such as you have quoted as appearing in lines 41 and following of this paragraph, and relating to the specific division of the sheet into three equal parts, appear essential or necessary to a full and complete understanding of the original patent?

A. No, they do not.

Q. 175. Do they add anything to the understanding of that patent?

A. Nothing whatsoever; the original patent having fully described the construction of the book, and there is no apparent necessity for any of these insertions, and the claim of the original patent fully covers all of the elements and combination of parts set forth in this specification.

Q. 176. Do you find any inadvertence, accident or mistake in these specifications and drawings appearing in the original patent?

Mr. WHITE.—We object to that as immaterial.

A. None whatsoever.

Q. 177. You say you do not find any accident in either of the specifications?

A. I don't find any accident that would render necessary an application for a reissue patent.

(Testimony of Frederick E. Maynard.)

Q. 178. (By Mr. TOWNSEND.) Do you find any inadvertence there that would lead to lack of a clear understanding of the function of the original patent?

Mr. WHITE.—That is objected to as immaterial, the law not contemplating the presence of any accident, inadvertence or mistake appearing on the face of the specifications to justify the reissue.

A. I do not.

Q. 179. (By Mr. TOWNSEND.) What do you find from reading said original letters patent to be the invention of the same, disclosed by the same?

Mr. WHITE.—We object to that as calling for a conclusion of the witness and an attempt on the part of counsel to have the witness to usurp the prerogatives of the court in construing this patent.

A. The invention is clearly set forth in the specification and shown in the drawings and claim, and it consists of a book of the manifold variety built up in a series of sections. This is clearly outlined in the paragraph on page 1 of the specification, which states: "Referring to the drawings, it will be seen that my improved manifold book is formed in sections, each section comprising in order," and so on. The claim of the original patent well covers this feature of the invention, and is sufficiently clear to enable anyone to construct a book intelligently from its composition.

Q. 180. (By Mr. TOWNSEND.) Do you find any evidences in this specification as to what the invention consisted of?

(Testimony of Frederick E. Maynard.)

A. This specification proceeds to describe a book comprising in order a carbon sheet, which carbon sheet, of course, is notoriously common in the art, and further describes a number of recording-sheets 2, equally notorious in the art, and states the specific character of the recording-sheets as being divided into three parts by lines of perforations. This is well known in the past state of the art. It also calls for a backing when one of the sections of the book is considered alone, as is clearly set forth in the paragraph on page 1, column 2, "The use of the cardboard backing." Cardboard backings are common in books of this character and are well known in the art. The last paragraph on this page sets up specifically a plurality of backings. It says: "The cardboard backings are an important feature of my invention, since they permit a large number of sheets to be bound into a book with a small number of carbons without any danger of transmitting the impression from one sheet to another sheet." This paragraph refers, of course, to a book built of a number of sections; that is, referring to the leaves as being divided into several sets or piles of leaves, and having between these piles, carbons and backings. That seems to be the essence of the invention, and is clearly claimed in the original patent.

Q. 181. Speaking of the cardboard backings being in the art, in what way, in what sense do you mean that, Mr. Maynard, speaking of a single section?

A. Speaking of a single section they form backs



(Testimony of Frederick E. Maynard.)

for the book to which the record-sheets are secured.

Q. 182. I understand you mean by "back" the cover of the book?           A. Yes.

Q. 183. In your opinion, will such a book cover perform the same function as the backing of a section of the Levison book?

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial.

A. Yes, sir, it does.

Q. 184. (By Mr. TOWNSEND.) Please state again what you find to be the invention, just in a few words, embodied in the original patent.

Mr. WHITE.—We object to that as being a mere repetition of former questions along the same line that have already been answered, and on the further ground that it is an attempt on the part of counsel to have this witness usurp the prerogative of the court in construing this patent.

A. The invention comprises, as set forth in the specification and drawings and claim a book formed of a number of superposed sections.

Q. 185. (By Mr. TOWNSEND.) Referring to the claims of the reissue patent, Levison 12,005, I will ask whether or not the invention embodied in Claims 2, 3, 4 and 5 are found or have a basis in the original patent? I would first add, though, will you state what the invention is that is embodied in Claims 2, 3, 4 and 5 of the reissue patent sued on?

A. The first of these claims, Claim No. 2, is for a manifold book comprising a double carbon sheet, a plurality of recording-sheets and a cardboard back-



(Testimony of Frederick E. Maynard.)

ing; and it further states that these recording-sheets outside of the stubs being divided into substantially equal parts.

Q. 186. Into how many?

A. Substantially three; three substantially equal parts; and that is apparently the basis of this claim in the reissue patent, and this basis is founded entirely upon the insertions in the reissue patent, these insertions having been referred to and described before, and are not found in the original application. The third claim is for a manifold book comprising an ordinary double carbon sheet and a plurality of recording-sheets, the recording-sheets outside of the stubs being divided into three substantially equal parts, and the carbon sheet extending the width of two of said parts. This claim differs only from the preceding claim in that it omits the cardboard backing referred to.

Q. 187. In your answer, state whether or not the matter of Claim 3 is found in the original patent, or what basis you find, if any, in the original patent, for the matter of Claim 3.

A. There is no basis in the original patent for the words in Claim 3 and following the word "three" line 3 of the 2d page of the specification, line 44, these words, "substantially equal," have no basis or foundation whatsoever in the original patent. Claim 4 for "a manifold book comprising in order a double carbon sheet, and a plurality of recording-sheets, each of said sheets outside the stubs"—I will state here that the words "outside the stubs" do not

(Testimony of Frederick E. Maynard.)

appear in the original patent No. 694,103; and also claims further on: "Each of said sheets outside the stubs being divided into a plurality, not less than three, of substantially equal separable parts, and the carbon sheet extending the width of said parts except the outermost, said recording-sheets having stubs to which they are attached along lines of perforations, said stubs and one side of the carbon sheet being all bound together to form a book, substantially as described."

Q. 188. In what you have read there what insertions, if any, appear therein that do not appear anywhere in the original patent?

A. The words "substantially equal" are used in this claim and have no basis in the original patent.

Q. 189. Taking the original patent as it stood, could a claim have been made or based on the original specification in which the words "three substantially equal" appear?

A. No, it could not.

Q. 190. For what reason?

A. The words "substantially equal" are not used at any point whatsoever in the original patent, but have been inserted into the reissue patent, and this insertion according to the exhibits we have had, was made, as well as the other insertions, after the reissue patent was filed.

Q. 191. Did those insertions form part of the application as actually filed in the reissue case and sworn to?

A. They did not. You asked me to describe the

(Testimony of Frederick E. Maynard.)

four claims. We have not yet taken up Claim 5.

Q. 192. Proceed.

A. Claim 5 calls for "A manifold book comprising in order a double carbon sheet, and a plurality of recording-sheets, each recording-sheet outside the stub being divided into a plurality not less than three of separable parts joined along lines of perforations, each part being not greater than the part next to it on the side toward the stub, and the carbon sheet extending the width of the whole of said parts except the outermost, said recording-sheet having stubs to which they are attached along lines of perforations, said stubs and one side of the carbon sheet being all bound together to form a book, substantially as described." In comparing this claim with the preceding claim, that is Claim 4, I am unable to find any substantial difference in these claims, as the Claim 4 calls in portion for "A plurality of recording-sheets, each of said sheets outside the stubs being divided into a plurality not less than three, of substantially equal separable parts." This claim would cover a book made up of sheets divided into not less than three substantially equal parts, which seems to be specific enough to make itself clear; whereas Claim 5 is merely a repetition of the elements claimed in No. 4, but with the description of the division of the parts being more or less reversed, but not specifying anything substantially different, in that this claim states that recording leaves "outside the stub being divided into a plurality not less than three of separable parts joined along lines of perforations." Com-



(Testimony of Frederick E. Maynard.)

paring these two claims, as we have, it is seen that both are for recording leaves divided into not less than three parts. Claim 4 states that these parts are substantially equal, whereas Claim 5 states "each part being not greater than the part next to it on the side toward the stub," which is certainly equivalent to saying in both the claims that the leaves are of substantially equal separable parts.

Q. 193. In your opinion does such a phraseology as is contained in Claim 5 referring to the recording-sheets, in its divisions, differentiate that recording-sheet from the description of the same recording-sheet in Claim 4?

A. It does not. Further I might say here, that recording-sheets divided into three parts are well known in the art, and one patent in particular calls for a recording-sheet of less than three parts; so that Claim 5 would be readable on a recording-sheet of less than three parts.

Q. 194. The claim says "not less than three parts." A. Yes, so it does.

Q. 195. Are there any of the exhibits which show the carbon sheet divided into more than three parts separable along lines of perforations?

A. An examination of the art as presented shows that the patent to Abraham comprises a manifold book having recording-sheets divided into more than three parts.

Q. 196. The Abraham patent you refer to is exhibit 3? A. Exhibit 3.

Q. 197. Referring to respondent's book repre-



(Testimony of Frederick E. Maynard.)

sented by Complainant's Exhibit "A" and observing the division of the sections outside the stubs, and referring to the insertion previously mentioned in the original patent, of a paragraph between lines 84 and 98, inclusive, and also to the drawings of the original letters patent, and the reissue patent, what distinction, if any, do you note as to the proportional size of these sections outside of the stubs?

A. There is no difference in the divisional parts of the record-leaves, either in the specification in the reissue patent, or in Exhibit "A" of complainant.

Q. 198. Do you find any extreme margin on the first section of the respondent's book such as is described in the paragraph alluded to?

A. There is a small margin—

Q. 199. I should say, outside the stubs? Please measure the leaves, and see what proportion you find to exist between the three sections of the respondent's book.

A. They are substantially equal outside the stubs.

Q. 200. Substantially equal?

A. They are equal.

Q. 201. Do you find it as necessary there to have any extra margin to fold the Kitchen book over or leaf over?

A. There is no essential requirement there, to any practical purpose. It is easy to fold the leaf over in the sections of equal dimensions.

Q. 202. You have just folded the leaf of the respondent's book in making your explanation, have you not?        A. I have.

(Testimony of Frederick E. Maynard.)

Q. 203. Would you state that the insertion of the paragraph alluded to in the reissue patent wherein it says that "This margin is left to enable the sheet to be more easily folded" was essential to a clear understanding, or not, of the original patent, in the book described? A. Certainly it is not essential.

Q. 204. You have previously stated, Mr. Maynard, in answer to Question 44 and others following, that you did not find the structure present in respondent's device of the stubs and one side of each carbon sheet being all bound together to form a book. I ask you if you find the equivalent of such a structure in the respondent's book?

A. No, the equivalent is not present.

Q. 205. Claim 3 of the reissue patent calls for the stubs and one side of the carbon sheet being bound together to form a book. You have previously stated here that you do not find that structure present in the respondent's book. I ask you if you find the equivalent of that structure present?

A. I do not find such equivalent present.

Q. 206. I will ask you whether or not you can make the same reply in regard to the same statement in Claims 4 and 5?

A. I would state the same in reference to those claims.

Cross-examination.

(By Mr. WHITE.)

XQ. 1. Where do you practice your profession, Mr. Maynard?

A. In the city of San Francisco.

(Testimony of Frederick E. Maynard.)

XQ. 2. With what firm?

A. Dewey, Strong & Co.

XQ. 3. Counsel for defendant is a member of that firm, is he not?

A. Not that I am aware of.

XQ. 4. He has his offices with that firm?

A. I don't know whether he has any offices there or not, whether he has any offices. He works in the office of Dewey, Strong & Co. His place of business is there. Whether he has any offices there or not, I don't know. I think Mr. Strong is the holder of the offices there, I don't know.

XQ. 5. You say that Mr. Townsend has an adjoining office with Mr. Strong, but you don't know whether Mr. Townsend holds a lease of that adjoining office—is that the idea?

A. Well, I believe that they have two rooms on the same floor. They are all opened into one room. There is no partition except merely temporary partitions, which divide each of the rooms into small compartments, so that there is more privacy in there. The draughtsmen have a room, the bookkeeper has a small room, Mr. Strong has his room and Mr. Townsend has his.

XQ. 6. Mr. Townsend, then, has no connection with the firm of Dewey, Strong & Co.?

A. That I could not say.

XQ. 7. He does not carry on any of their business in connection with Mr. Strong in that firm?

A. He does not carry on any of their business?

XQ. 8. Yes.

(Testimony of Frederick E. Maynard.)

A. I am aware of the fact that he is a specification writer.

XQ. 9. For Dewey, Strong & Co.?

A. For Dewey, Strong & Co.

XQ. 10. And you also are a specification writer for Dewey, Strong & Co.?

A. I divide my time between writing specifications and preparing drawings.

XQ. 11. For what period of time have you acted as an expert witness in patent cases?

A. Well, I have not acted exactly as an expert witness. I have given opinions at various times in patent cases.

XQ. 12. Have you ever appeared before, in any case, as an expert witness? A. I have not.

XQ. 13. Are the carbon sheets in Complainant's Exhibit "A" held in place in substantially the same way that the leaves are held together, by clamps?

A. They are removably held in the book.

XQ. 14. I didn't ask you whether they were removably held. I asked you whether they were held in place in substantially the same way that leaves are held together, where clamps are used. In other words, is not the back of this book, Complainant's Exhibit "A," provided with a clamp holding the carbon leaves?

Mr. TOWNSEND.—We object to that since the patent does not call for backs of leaves, the carbons being clamped together, but not bound together, and the counsel has not stated what the nature of the clamp is that he refers to.



(Testimony of Frederick E. Maynard.)

A. The carbon is not held here by a clamp.

XQ. 15. (By Mr. WHITE.) By what means does a clamp such as is shown in the Doughty patent hold the leaves together—by pressure?

A. In the Doughty patent there is a specific clamp for that purpose.

XQ. 16. Please answer my question, Mr. Maynard. I didn't ask you about the specific construction of that clamp. I asked you if that clamp held the leaves together by pressure or friction or whatever you might call it?

A. The clamp in the Doughty patent is made, if I remember the construction—well, it states that they are held by clamps. I should suppose that they are held very positively by clamping action.

XQ. 17. What is the clamping action?

A. The metal there has been, as far as the drawing shows, doubled up or folded upon itself so as to clamp the leaves between the carbon.

XQ. 18. When leaves are held together in that manner by such a clamp what prevents them from becoming separated?

A. By the clamp in the Doughty patent the leaves are—do you mean the carbon leaves?

XQ. 19. Any of the leaves that are held together there by a clamp. It is immaterial what kind of leaves they are.

A. The carbon is held by a clamp and the back disconnected from the book without severing the carbon.

XQ. 20. What enables the clamp to hold the

(Testimony of Frederick E. Maynard.)

leaves together in the character of a clamp—what is the force that holds the leaves together?

A. Well, I should state that in the Doughty clamp the metal is doubled over and the mechanical strength of the metal at the fold is the feature which holds the carbon.

XQ. 21. What is the purpose of constructing Complainant's Exhibit "A" in the manner shown whereby the carbon is held in place?

A. The purpose of the construction in this case is to enable the carbon to be inserted at different points between the leaves so that the carbon can be removed without injury or destruction.

XQ. 22. The carbon in Complainant's Exhibit "A" is provided with a piece of pasteboard and this piece of pasteboard is inserted in the back of the book. Now, what is the purpose of inserting it in that way?

A. The purpose of inserting it in the back of the book is merely to retain it in the book.

XQ. 23. To hold it in place in the book?

A. Well, if "retain" is equivalent to "hold," it holds it there.

XQ. 24. Does the construction of this book, Complainant's Exhibit "A," secure the carbon in place?

A. It does not secure it in the sense of the Levison.

XQ. 25. I did not ask you that question; I asked you if it secured it in place, so that it remains in place in the ordinary use of the book?

A. It secures it with sufficient holding power to

(Testimony of Frederick E. Maynard.)  
prevent it from dropping out accidentally.

XQ. 26. That is the sole purpose of this construction, is it not, to prevent it from dropping out, being loose and having the wind blow it away, as you stated in your direct examination?

A. The purpose is to hold it in there and to prevent it from being dislodged accidentally, and also to hold it in such a manner that it can be put at any point in the book.

XQ. 27. In ordinary use, do you think this construction embodied in Complainant's Exhibit "A" is sufficient to hold the carbon in place?

A. In ordinary use?

XQ. 28. Yes.                      A. I do.

XQ. 29. You do? What is the purpose of stitching the carbon in the complainant's book as covered by the patent in suit?

A. The purpose of its being stitched there is to bind it in the book.

XQ. 30. And it is bound there for the purpose of keeping it in place in the ordinary use of the book?

A. It is bound there for the purpose of holding it in position constantly.

XQ. 31. So that we have illustrated in the Complainant's Exhibit "A" and in the complainant's patent a means of holding the carbon in place during the ordinary use of the respective books, is not that the fact?

A. We have two absolutely independent and distinctly different means.

(Testimony of Frederick E. Maynard.)

XQ. 32. We have two means, have we not, in complainant's patent and in Complainant's Exhibit "A" for holding the carbon in place during the ordinary use of the book—is that not a fact?

A. The carbons are held in the book.

XQ. 33. Have you read the Doughty patent?

A. I have.

XQ. 34. You are perfectly familiar with it?

A. I should think so.

XQ. 35. Do you find any technical expressions used there incorrectly?

A. I have not been able to find any technical discrepancies.

XQ. 36. I asked you if you found any technical expressions or expressions pertaining to this particular art which are incorrectly used and which would not convey the correct meaning to those skilled in the art in endeavoring to understand the disclosure covered by the Doughty patent.

Mr. TOWNSEND.—You are entitled to read the patent through.

XQ. 37. (By Mr. WHITE.) Have you not read the patent sufficiently before you came into this case?

A. I have read the patent through sufficiently to become enlightened as to its construction, but not to look into the technical or scientific details.

XQ. 38. Didn't you read it sufficiently to know whether or not it conveys the correct meaning to those who are endeavoring to acquire a knowledge of the invention covered by it?      A. Yes.



(Testimony of Frederick E. Maynard.)

XQ. 39. What is your definition of the word "bound"?

A. The word "bound" in my mind means that the things bound are so held together that they could not be separated from one another without severing the binding means.

XQ. 40. When leaves are held together by clamps, then, you would not consider them bound together?

A. If the leaves are held together by a clamp, they are "clamped" together, and if the clamp is of such a nature that the binding means which holds the leaves in the book is such that before the leaves could be removed it would be necessary to break, or disconnect or sever the binding elements, I would say they were bound together.

XQ. 41. Have you compared Defendant's Exhibit No. 10 with the Doughty patent, to see whether or not it is made in accordance with the specifications of the Doughty patent?

A. It is made in an accurate form so as to conform to the requirements of the Doughty patent.

XQ. 42. Now, comparing Defendant's Exhibit 10 with Figure 1 of the Doughty patent, I will ask you to state whether or not such exhibit is made in accordance with such Figure 1?

A. The only difference in the general construction is that the back of the cover is perhaps, considerably longer.

XQ. 43. Does not that make a substantial difference?      A. Not in the operation of the book.

(Testimony of Frederick E. Maynard.)

XQ. 44. Is it not a fact that in the Doughty patent the frame to which the carbon is clamped is hinged at the end of the book?

A. That is only a matter of degree.

XQ. 45. Is it not a fact that in the Doughty patent the last section of the leaves are shown as folded prior to being used?

A. That is only a matter of degree, whether the leaves are folded over or not. We will have that perfectly illustrated if we fold the leaves of the exhibit No. 10 over.

XQ. 46. Why was the model made in this way? Why was it not made in this way? Why was it not made in accordance with the Doughty patent?

A. Because the person who made the model, perhaps, did not precisely follow the instructions. He was not instructed, perhaps, to follow this as a copy.

XQ. 47. The model is actually made in much closer resemblance, to the casual observer, to the patent in suit, than the device as shown in the Doughty patent, is it not?

A. No, there is no specific resemblance; merely leaving off the extension of the cover would not constitute a similarity.

XQ. 48. I will ask you to take the model exhibit of the Doughty patent, fold over the last section of the leaves, and then proceed to use the book and describe the operations which are necessary to be made in order to use the book.

A. Taking the model exhibit No. 10 we find that the carbon is connected to the cover of the book by

(Testimony of Frederick E. Maynard.)

a hinge or other flexible connection, enabling it to be turned inwardly towards the stub so as to place the carbon upon the innermost sections of the leaves, the carbon being sufficiently long to cover two sections of the recording-leaves. This leaves the outer section of the recording-leaf free to be folded over inwardly along the line perforations, provided for such folding, and severance; and the leaf which has once been folded is folded again, so that a single fold is given to the carbon. In this way the carbon is folded between the upper sections of the leaf and is in a position to be used.

XQ. 49. Mr. Maynard, I ask you now to fold over the last section of the leaf here in the Doughty patent, just as you find it folded over in the patent.

A. Do you want all of the leaves in the book folded?

XQ. 50. You may fold three or four of them, if you wish.

A. Figure 1 of the Doughty patent shows the uppermost leaf being folded at its outer end so as to enclose a portion of the carbon, and the lower leaves or leaves under the topmost leaf, each have their outer ends folded, this serving apparently the purpose of providing a shorter back.

XQ. 51. Now, Mr. Maynard, we will assume that you have used this book and used the first sheet in this book, and I will ask you to remove it. (The witness removes it.) In removing it I notice that you had to throw the carbon and its frame to one side, to the end of the book, did you not?

(Testimony of Frederick E. Maynard.)

A. I did.

XQ. 52. Now, what will be the next thing to do in order to make use of the second sheet?

A. Merely to throw out the infolded outer section of the recording-sheet and to throw the carbon-carrying frame inwardly over the book. This will result in the carbon falling naturally into place on the leaves of the book.

Mr. WHITE.—In view of the witness' testimony I move to strike out from the files of the case this Defendant's Exhibit No. 10 as not being made in accordance with the Doughty patent introduced in evidence, and not shown to have been used by anyone or representing anything.

XQ. 53. You have studied the Barlow patent very carefully, have you not, Mr. Maynard?

A. I have.

XQ. 54. I believe you stated that the drawing of the carbon sheet in that patent was not shown according to scale—was that correct?

A. I stated so accidentally. It was purely immaterial whether the carbon sheet showed exactly the right size or not.

XQ. 55. It is clearly shown, is it not, in the specifications that the length of the carbon is to be that of two of the sections of the sheet?

A. It so states and is so shown in Figure 2 of the drawings.

XQ. 56. Would anyone reading that patent, anyone skilled in the art, so understand it, that the



(Testimony of Frederick E. Maynard.)

length of the carbon was to be that of two sections of the sheet?

A. The specification states in lines 51, 52 and 53, page 1, of the Barlow patent, exhibit 1: "In using the paper having both faces carbonized, a sheet of sufficient size to cover two of the three sections of each blank is employed." That is sufficiently clear for anyone not to misinterpret the intention of the patent.

XQ. 57. Would anyone skilled in the art, reading this patent, and endeavoring to practice the invention disclosed therein, understand that the carbon was to be the length of two sections?

A. He would.

XQ. 58. Now, Mr. Maynard, do you know why the model introduced in evidence here, disclosing the invention disclosed by this Barlow patent, contains a carbon that is longer than two of the sections of the sheet?

A. The carbon in exhibit marked 9 is somewhat longer, but it is merely a matter of degree.

XQ. 59. And by making this carbon just a little bit longer, it more closely resembles, does it not, the respondent's book, Complainant's Exhibit "A"?

A. I hardly think that any intentional purpose was contemplated in making that a little longer. I didn't make the models.

XQ. 60. It was just carelessness, I presume, that made the man, whoever he was, who made this model, have the carbon sheet a little bit longer than was shown in the patent?

(Testimony of Frederick E. Maynard.)

A. Quite evidently he was not a model maker, otherwise if he had been told to follow the Barlow patent he would have followed it. Since there is no purpose, when we have the patent in front of us showing specifically that the carbon extends over two lengths, of making it any longer.

XQ. 61. The purpose of a model, though, is to more clearly illustrate to the court what was disclosed by the patent, is it not?

A. That should have been the purpose of the model, to follow the patent.

XQ. 62. As a matter of fact, the model did not follow the patent, and therefore does not disclose to the Court more clearly what is disclosed in the patent; is that not correct?

A. Such a variation was quite useless.

XQ. 63. You do not think that the Court would be imposed on by that?

A. I do not, not in view of the patent. If he had no patent he might have been.

Mr. WHITE.—I move to strike out from the files the model of the Barlow patent, Defendant's Exhibit No. 9, on the ground that it does not correctly represent the disclosure of the invention and is not representative of anything in this case.

XQ. 64. Is the carbon in this Defendant's Exhibit 9 held in place by any means?

A. It is not held in place, but I should state that it would not require any ingenuity to bind it in place in view of the prior state of the art.

XQ. 65. Since Mr. Levison did it, I presume you

(Testimony of Frederick E. Maynard.)

could do it?      A. Mr. Abraham did it.

XQ. 66. Does Barlow in his patent attempt to accomplish the same result which is accomplished in the Levison patent, to wit; hold the paper in place?

A. He don't attempt to accomplish it, no. He was perhaps, not a constant user.

Mr. TOWNSEND.—That question is objected to as attempting to state what the Levison patent intended to cover.

XQ. 67. (By Mr. WHITE.) By the complicated device disclosed in this Doughty patent, it is evident that the patentee saw the advantage of having the carbon held in place, is it not?

A. I should not think so. I don't think I would have attempted to bind it in by any such complicated means.

XQ. 68. Do you mean to say that the patentee of the Doughty patent did not desire to hold the carbon in place, and for that reason adopted this very complicated means for holding it in place?

A. I do not.

XQ. 69. What do you mean?

A. His intention was absolutely to hold it there.

XQ. 70. To hold it there by this complicated means shown in the patent?

A. He provided just means so that the carbon is movable, but still connected and bound to the book, and in his construction he enabled a person to place the carbon at any point within the body of the book.

XQ. 71. So it was his object then—one of his objects was to hold the carbon in place?

(Testimony of Frederick E. Maynard.)

A. That was one of his objects.

XQ. 72. And he provided this complicated means for doing so?

A. The complication results in an advantage.

XQ. 73. Now, in the respondent's book, Complainant's Exhibit "A," is it the purpose of the construction disclosed in that book to have the carbon removed?

A. Not to have it removed, no, but it is removable; to have it removable.

XQ. 74. For what purpose?

A. For what purpose would it be removable?

XQ. 75. Yes.

A. Well, so that in case anyone made a misstatement in using the book, in using several pages of the recording-sheet, and he wished to save those recording-sheets as records, he could then insert the removable carbon sheet below these sheets, and change an error which had been made.

XQ. 76. So that you find then, in Complainant's Exhibit "A," the respondent's book, the advantages derived from binding or holding the carbon in place, and also the advantages of means permitting the carbon to be moved, if so desired, do you not?

A. He provides a device by which the carbon is held to the book and removable from the book at will.

XQ. 77. So that to the advantages of the Levison construction by which the carbon is held in place the defendant has added the advantages of a removable feature? Is that the fact?

A. The defendant has not added anything to the



(Testimony of Frederick E. Maynard.)

bound-in carbon of Levison.

XQ. 78. Eliminate the word "bound" you have such an aversion to that; and we will use the word "held." The word "held" does not mean "stitched," does it?

A. No, you can hold it without stitching.

XQ. 79. You can hold it without stitching, but you cannot bind it without stitching?

A. Not in the bookbinding. Well, you can bind without stitching.

XQ. 80. Do you understand the word "bound" to mean stitching? A. Not exclusively.

XQ. 81. What does it mean?

A. I said that binding means to hold a thing in such a manner that the binding elements must be severed in order to release it.

XQ. 82. Where did you ever get hold of such a definition?

A. I never got hold of it at all.

XQ. 83. You just manufactured it for this occasion?

A. Perhaps I originated it. I don't know when I manufactured it.

XQ. 84. You originated it in this case?

A. Not necessarily.

XQ. 85. When did you originate such a definition?

A. Whenever it was necessary to use the word "bind" in the sense that the members were permanently connected, such as is frequently necessary in writing specifications, that the definition of the

(Testimony of Frederick E. Maynard.)

word is equivalent.

XQ. 86. You being an expert are necessarily very careful in the use of words and in using words in their proper significance, why is it that you always used the word “permanently” before the word “bound” if in your view the word “bound” means “permanently held together”?

A. Well, because there is two kinds of binding; there is permanent binding and temporary binding.

XQ. 87. Oh, I see. So that the Levison book is limited to permanent binding, and the respondent's book discloses a book which is not bound permanently together—is that the idea?

A. It discloses a book in which there is no real binding at all in any sense applying to the carbon.

XQ. 88. Now, will you give me an illustration of a book bound together, but not bound together permanently?

A. I am not a bookkeeper, but I have seen books temporarily bound by clamps.

XQ. 89. And that is where leaves are bound together but not bound together permanently—is that correct?

A. They are held together so that the leaves may be inserted and removed from the binder without destroying either the binding elements or the leaves.

XQ. 90. So that you do call a clamping device a binding means then?

A. With that distinction.

XQ. 91. What distinction?

A. With the two means of binding, permanent and temporary.

(Testimony of Frederick E. Maynard.)

XQ. 92. And as an example of temporary binding you give the clamp?

A. I give the clamp, yes.

XQ. 93. Now, in Complainant's Exhibit "A" do you find temporary binding leaves?

A. Not set up for that purpose, I do not.

XQ. 94. I did not ask you for what purpose they are set up; I asked you if you found in that exhibit a temporary binding means?

A. Not a binding which binds in the carbon.

XQ. 95. Why does not that bind in the carbon if it holds it in place in the same manner that the clamp holds the leaves together in place?

A. It is a clamp that is usually provided with mechanical means by which the leaves are held. The means are set up for that purpose. In this case there are no means set up for the purpose of binding that carbon. The binding in that book is for the purpose of securing the leaves of that book together.

XQ. 96. Does not the binding in this book hold the carbon in place when it is inserted in the manner shown here in Defendant's Exhibit "A"?

A. The binding of the book holds the leaves together, and enables the carbon to be held in there.

XQ. 97. In the same manner that a clamp would hold the carbon in place? A. No, sir.

XQ. 98. What different force is used in Defendant's Exhibit "A" to hold the carbon in place than is used in clamping?

A. The difference of the elements entering into it.

(Testimony of Frederick E. Maynard.)

XQ. 99. I am not asking you about the elements. I am asking you about the force applied.

A. Well, in a clamp designed for the purpose of holding the books. That is its intention. The function in this case is to hold the carbon.

XQ. 100. You mean that the man who made this stated to himself, "Now, the intention of this binding is not to hold the carbon in place, but evidently he has made that book and I am going to use it to perform that function"?

A. The same as if you stick a card in the book sufficient to hold it from dropping out. That is not binding it in the book.

XQ. 101. Can you give any other example of leaves held together or bound together by means that do not constitute a permanent binder?

A. There are numerous temporary binders which I cannot enumerate at present.

XQ. 102. There are numerous ones, but you can't name any one now.

A. I am sufficiently familiar with them, but I can't mention any clamp except a clamp having a spring in it, for the purpose of holding leaves together.

XQ. 103. Can you name any mere temporary binding means other than a clamping device?

A. No.

XQ. 104. Do you find the word "permanently" used in one of the claims of the patent in suit?

A. No, you don't find it in the claims, but you have to refer to the specification in following those claims.



(Testimony of Frederick E. Maynard.)

XQ. 105. And the claims are limited to the specific construction shown in the specification—is that correct?

A. They are built upon the foundation set up in the specification and drawings.

XQ. 106. Is it your understanding that because a permanent binding means is disclosed in the patent in suit, that the claims are limited to a permanent binding means?

A. The claims are limited to the use of the word “binding” as disclosed, and in view further of the general state of the art that there are two classes of books, the bound book and the loose carbon book.

XQ. 107. In a book constructed in accordance with the Doughty patent, is it possible for the manufacture of the same to determine with how many leaves the carbon sheet shall be used, and thereby economize the use of the carbon?

A. Manufacturers, I think, usually are aware of the number of good impressions that can be taken from one carbon, so that they would provide sufficient carbons.

XQ. 108. A manufacturer is in a better position, is he not, to determine how many sheets may be used, or how many impressions may be taken or used with one carbon, than the ordinary user?

A. The purchaser of the book would probably make his demand that the book meet his requirements. The manufacturer may neglect to put in the requisite number of carbons, to his own advantage. I should think that judgment would determine the

(Testimony of Frederick E. Maynard.)

number of the carbons; that is, the requirements of the users.

XQ. 109. I believe you stated that in the original Levison patent you did not find any accident or any inadvertence or any mistakes?

A. I so stated.

XQ. 110. And it is your understanding of the law that in order that a reissue patent may be had, that there must appear in the original patent such an accident, inadvertence or mistake. Is that correct?

Mr. TOWNSEND.—We object to that as calling for a legal conclusion; and the witness has not testified as to his idea of what the law requires.

A. Yes.

XQ. 111. (By Mr. WHITE.) With that understanding of the law you have given your testimony here?

A. I have not attempted to testify on a question of law.

XQ. 112. I said with that understanding of the law you have given your testimony here. Is that correct? A. Yes.

XQ. 113. Did you ever see an accident in any patent specifications in your life?

A. I have known cases in which the specification did not set up all the matter that was disclosed in the drawing.

XQ. 114. And in that case you would consider those an accident appearing upon the face of the specification? A. An inadvertence, perhaps.

XQ. 115. The same concrete embodiment of the

(Testimony of Frederick E. Maynard.)

invention is shown in the drawing of the original patent in the same manner, not in its details, as it is shown in the reissue patent, is it not?

A. The specification and drawings are similar with the exception of the insertions made in the reissue patent.

XQ. 116. I presume it is your understanding of the law that in the reissue patent any insertions which are not contained in the original patent, that the reissue is void? Is that correct?

Mr. TOWNSEND.—We object to that as calling for a legal conclusion, because the witness has not been asked what his opinion was, or as to the effect of any such omission or insertion, but he has been asked as to the facts, if any, constituting the insertions or omissions, not as to their legal effect.

A. I should not state that the patent is void. It is not my province.

XQ. 117. (By Mr. WHITE.) You said you found new matter in the reissue patent in suit. What do you mean by new matter?

A. Material which does not appear in the specification of the original patent.

XQ. 118. What do you mean by material?

A. Substance, matter.

XQ. 119. You mean new printed matter?

A. New descriptive matter, printed or written.

Mr. WHITE.—That is all.

Mr. TOWNSEND.—I have just handed the Master Exhibit No. 7, which was offered in evidence but was not present at that time. It is now submitted and marked Defendant's Exhibit No. 7.

(Testimony of Frederick E. Maynard.)

Redirect Examination.

(By Mr. TOWNSEND.)

RDQ. 1. You stated in cross-examination, Mr. Maynard, that the art shows two classes of books, those of the bound carbon variety and those of the loose carbon variety? A. I did.

RDQ. 2. Will you please illustrate by reference to the patents and exhibits?

A. The patent to Perry, exhibit No. 6, and the patent to Barlow exhibit No. 1, clearly set forth manifold books in which the carbons are not bound into the book, whereas in the patent to Bengough, exhibit No. 7, to Abraham, exhibit No. 3, and to Doughty, exhibit No. 2, the carbons are bound to the book, thus clearly showing without question two distinct varieties of manifold books, to wit, loose leaf carbons and the bound carbons.

RDQ. 3. To which class does the Levison patent in suit belong?

A. The Levison patent clearly belongs to the class as represented by the Abraham patent, exhibit No. 3, in which the carbon is bound to the book. The Bengough patent, exhibit No. 7, also having the carbon bound into the book.

RDQ. 4. To which class does the respondent's book, Complainant's Exhibit "A," belong?

A. The respondent's book may be classified along with the patent to Perry, exhibit No. 6, showing a triplicate book with loose carbons, the patent to Barlow, exhibit No. 1, showing a triplicate manifold book having a loose carbon.



(Testimony of Frederick E. Maynard.)

RDQ. 5. In the Doughty patent, what is the purpose of mounting the carbon in the manner shown, on a hinged arm?

Mr. WHITE.—We object to that as not proper re-direct examination.

A. The purpose of a carbon mounted on a hinged arm is so that the carbon may be turned down to lie upon the inner sections of the book.

RDQ. 6. (By Mr. TOWNSEND.) What other purposes have they?

A. And to hold it permanently secured to the book.

RDQ. 7. In what way is it permanently secured to the book?

A. By means of the frame to which it is secured, the frame in turn being secured to the cover.

RDQ. 8. State whether or not the carbon is removably held in the frame?

Mr. WHITE.—We object to that as leading. The witness has not stated that it is removably held to the frame.

A. The carbon is held in a clamp secured to the frame.

RDQ. 9. (By Mr. TOWNSEND.) What is that clamp designated?

A. It is designated as D, the clamp being mounted on the free ends of the arms dd.

RDQ. 10. In your understanding of the Doughty patent, what would you say that the clamp D indicated?

A. It would indicate that the carbon was secured

(Testimony of Frederick E. Maynard.)

to the frame C.

RDQ. 11. You stated that the carbon in the Doughty is capable of insertion in the various portions of the book? A. It is.

RDQ. 12. How in that respect does it differ from the respondent's carbon?

A. It differs mainly in that it is secured to the cover of the book, while the respondent's is not secured to the cover; but in each case the carbon is insertable at different points in the book.

RDQ. 13. Is the carbon of the Doughty insertable at different points in the book?

A. It may be inserted between different leaves of the book.

RDQ. 14. State whether or not it is any different in that respect from the carbon of the respondent.

A. No.

RDQ. 15. On cross-examination your attention was called to a means for holding a pad of leaves in the Doughty in place. I will call your attention to the Doughty patent, exhibit No. 2, and will ask you to read lines 46, page 1.

A. (Reading:) B indicates the pile of full leaves, secured together by staples a a at one end and by the same end to the cover by the clamp A'. In the first two figures of the drawings the clamp A' is secured to the inner side of the cover on the right-hand side of the hinge. The bound ends of the leaves are held in this clamp with their free ends extending to the right, but with their end sections b'' turned inward and lying on their respective central sections b'.

(Testimony of Frederick E. Maynard.)

RDQ. 16. Do you find in the specification means enumerated there for binding the pile of leaves together?

A. It is here stated that the leaves are bound together by staples.

RDQ. 17. Does it say anything there in that paragraph that they are bound by the clamp A'?

A. It also states that they are secured at the same end to the cover by the clamp A'.

RDQ. 18. Which end of the leaves is held by the clamp? Does it say there?

A. It states that the leaves are secured together by staples at one end, and by the same end secured to the cover by the clamp A'.

RDQ. 19. Does it state specifically in the first line, on top of column 2, how those ends are bound, how they are clamped?

A. It states that the bound ends of the leaves are held by this clamp by their free ends extending to the right.

RDQ. 20. State what, to your mind, the word "binding" means as used by the patent of Doughty from reading paragraph above mentioned?

A. This states that the ends are bound, and it states also that they are secured together by staples, at one end. Apparently the leaves are first secured together by staples, and they are then again bound to the cover with the clamp, so that their free ends extend to the right.

RDQ. 21. Does it say that they are bound to the cover by the clamp, or that the bound ends of the

(Testimony of Frederick E. Maynard.)

leaves are held by the clamp?

A. It states that the bound ends of the leaves are held in this clamp.

RDQ. 22. What would you say that the binding means are in the Doughty? The staples or the clamp A'?

A. It states that they are secured together by staples, at one end, and by the same end secured to the cover by the clamp. It is a question which is intended to be employed, whether the leaves are bound to the cover or whether the clamp holds them to the cover.

RDQ. 23. When it speaks in the top line of the second column "The bound ends of the leaves are held in this clamp," does it mean that these bound ends are held by the staples or by a clamp?

A. That would infer that the bound ends are held to the cover by the clamps.

RDQ. 24. How do you connect the bound ends of the leaves in the first place?

A. By the staples a.

RDQ. 25. Then, what would you say is meant by binding in the Doughty patent?

A. It certainly states that the binding here is by means of staples.

RDQ. 26. Referring to the Barlow patent, page 1, lines 51 and 52, does it state therein that the carbon must be just the size to cover two sections?

Mr. WHITE.—We object to that as leading, and on the further ground that it is not proper redirect examination. The matter has been gone into fully on direct.



(Testimony of Frederick E. Maynard.)

A. No; it states that the carbon sheets should be sufficient size to cover two of the three sections of each blank employed.

RDQ. 27. (By Mr. TOWNSEND.) Do you find anything in that sentence to limit it precisely to two sections?

Mr. WHITE.—That is objected to as leading.

A. I do not.

RDQ. 28. (By Mr. TOWNSEND.) State whether or not in your opinion you think the Court would be misled in comparing the Doughty patent and the Barlow patent and the Barlow model, exhibit 9.

A. I should not think that the Court would be misled by such a showing.

(Further hearing adjourned to Friday, March 12, 1909, at 10:30 A. M.)

Friday, March 12, 1909, 10 A. M.

Counsel appearing:

W. K. WHITE, Esq., of MILLER & WHITE,  
Solicitors for Complainant.

C. E. TOWNSEND, Esq., Solicitor for Defendant.

**[Testimony of John Kitchen, Jr., for Defendant.]**

Testimony of JOHN KITCHEN, Jr., called for defendant.

(By Mr. TOWNSEND.)

Q. 1. Mr. Kitchen, are you the same John Kitchen, Jr., who has been sworn and has testified in this case already?      A. The same.

Q. 2. What is your age, Mr. Kitchen?

(Testimony of John Kitchen, Jr.)

A. Forty-one.

Q. 3. What is your occupation?

A. Employing bookbinder and printer.

Q. 4. How long have you been in that business?

A. 25 or 26 years.

Q. 5. Are you familiar with the bookbinding art?

A. Yes, I am a master mechanic.

Q. 6. Do you recognize Complainant's Exhibit "A"?

A. Yes, I do.

Q. 7. State, Mr. Kitchen, generally, what were the circumstances leading up to the manufacture of books of that character and the furnishing of them to the city.

A. Well, the City and County of San Francisco issue a schedule yearly for books and stationery and printing supplies for the fiscal year, and one of the specifications called for a carbon book, a triplicate book by samples to be submitted, and the samples were submitted and it was approved by the Board of Supervisors, the printing committee of the Board of Supervisors.

Q. 8. Were there any other bidders?

A. Oh, there were various other bidders on this same proposition. A lot of other people bid. Mr. Levison bid.

Q. 9. Mr. Levison who is the complainant in this case?

A. Yes, he bid. He put in an exorbitant figure on the job, such as it was.

Mr. WHITE.—I move to strike out the latter statement of the witness on the ground that it is not responsive.

(Testimony of John Kitchen, Jr.)

Q. 10. (By Mr. TOWNSEND.) You state that Mr. Levison's figure was exorbitant. What do you mean by that?

Mr. WHITE.—I object to that as incompetent, irrelevant and immaterial.

A. I mean that it was about 60 per cent higher than what he would charge the regular consumer, the regular people around the town; between 50 and 60 per cent higher than what he would charge other people.

Q. 11. (By Mr. TOWNSEND.) Do you mean for the same quality of book?

A. The same quality and kind of book.

Q. 12. I show you a paper, Mr. Kitchen, and ask you if you recognize it, to tell me what it is.

A. Yes, that is the patent that I made application for, and which I furnished the City and County of San Francisco the same style of book that is called for in this patent.

Mr. TOWNSEND.—I offer in evidence copy of patent 911,597, dated February 9, 1909, issued to John Kitchen, Jr., for manifolding book, and ask that the same be marked Defendant's Exhibit No. 12.

Mr. WHITE.—We object to that as incompetent, irrelevant and immaterial.

(Marked Defendant's Exhibit No. 12.)

Q. 13. (By Mr. TOWNSEND.) I understand, Mr. Kitchen, you are the patentee mentioned in that exhibit 12? A. I am.

Q. 14. State whether or not Complainant's Exhibit "A" is built according to your patent exhibit 12?

(Testimony of John Kitchen, Jr.)

A. This book is built on the same lines exactly as exhibit 12.

Q. 15. Take Complainant's Exhibit "A," Mr. Kitchen. I will ask you if that book contains or shows the stubs of the recording-sheets and one side of the carbon sheet and backing being all bound together to form a book?

Mr. WHITE.—We object to that as leading.

A. No, it does not.

Q. 16. And for what reason, Mr. Kitchen?

A. Well, it has a removable carbon. The carbon is not bound in.

Q. 17. Any other difference?

A. Well, there are no so-called backing-sheets in this card. This card, this book has a flexible stop-card that can be inter-leaved under any sheet, and is not bound in the book, the same as in Brown.

Q. 19. You mean the Brown patent?

A. Yes, I constructed that stop-card for Brown a good many years ago.

Q. 20. Referring to exhibit 4?

A. Exhibit 4.

Q. 21. Is the construction of that stop-card of this exhibit "A" described and shown in your patent exhibit 12?      A. It is.

Q. 22. State whether or not the construction and operation of your carbon is described in your patent also?      A. It is.

Q. 23. Taking the Barlow patent, exhibit No. 1, Mr. Kitchen, I will ask you if you are familiar with that?



(Testimony of John Kitchen, Jr.)

A. I am. I have bound a good many thousand of the Barlow patent a good many years ago. The man that owned the patent, that had the patent rights for it was Jacob Bacon & Co.; and when I was a boy learning my trade I bound a good many thousands of those in various forms and styles.

Q. 24. Had those books that you bound then as a boy the recording-sheets bound together and divided into three sections foldable as therein shown?

Mr. WHITE.—We object to that as leading.

A. Exactly as shown in this copy here.

Q. 25. How are the carbons?

A. The carbons were supposed to cover two sections, or a little larger. It don't make any difference. We generally cut them a little larger, for the reason that the carbon rolled up and curled up on the edge, and folded over.

Q. 26. Have you ceased to manufacture those books?

A. No, we have not. We make those books to-day, many of the Barlow books to-day.

Q. 27. Have you recently had occasion to bind any?

A. Yes, just a little while ago. Well, I will say that there is hardly a week goes by that we don't have some form of Barlow book. I have a copy of one.

Q. 28. Will you produce it, one that was bound here recently? (The witness produces.) How recently do you mean?

A. Well, this here was bound in January.

(Testimony of John Kitchen, Jr.)

Q. 29. Of this year?

A. January of this year.

Q. 30. State whether or not that was filled in response to an order for a book of that sort.

A. Yes, it was to fill an order for that book. That was the book that was submitted.

Q. 31. What notice appears on those sheets that you have before you?

A. Letters forming the number and the date. The people who order them have their number and that goes on their order.

Q. 32. For whom were those books made?

A. For Schilling; A. Schilling.

Q. 33. Of this city?           A. Yes, sir.

Mr TOWNSEND.—I introduce this book in evidence, and ask that it be marked Defendant's Exhibit No. 13.

(So marked.)

Q. 34. Have you any idea how many of those books, the Barlow, you make?

A. Well, that would be impossible to tell. We have never kept any data, but hardly a week goes by unless we have some form of triplicate books in, similar to the Barlow.

Q. 35. State whether or not the books such as exhibit 13, corresponding to the Barlow patent, are now in general use or not.           A. They are.

Q. 36. Are they used by more firms than A. Schilling & Co. in this city?

A. Oh, my! There are numerous firms use them.

Q. 37. Are there more firms than yours? Are

(Testimony of John Kitchen, Jr.)

there other firms than yourself making these books to-day in this city?

A. Yes, every bindery in San Francisco makes them, and every printing office.

Q. 38. Do you recollect any other recent orders than the Schilling order for these books?

A. I cannot recollect them. That was the only one that I had in sheets—that I had any sheets left over of, the only one that I could look up immediately. I say there is hardly a week goes by—

Q. 39. State whether or not it is the rule of your office to make up a number of books required, and deliver the whole lot.

A. Yes, we do make up just what is ordered, and deliver them.

Q. 40. Talking of the Barlow patent before you, this book, exhibit 13, I would ask you if that book is a manifold book? A. It is.

Q. 41. Does it comprise “a double-carbon sheet”? A. It does.

Q. 42. State whether or not it has “a plurality of recording-sheets.” A. It has.

Q. 43. State whether or not it has “a cardboard backing.”

MR. WHITE.—We object to that as leading.

A. Yes, you could call the book cover of every book a cardboard backing.

Q. 44. (By Mr. TOWNSEND.) What would be the function of the cardboard backing?

A. Well, it is to protect the leaves, and also—well, it would also give you a better carbon copy.

(Testimony of John Kitchen, Jr.)

Q. 45. In what way?

A. Well, it makes a hard surface to write upon.

Q. 46. Will the backing sheet do more than that?

A. No.

Q. 47. Continuing my reading of Claim 2 of the Levison patent sued on, I will ask you whether or not "the recording-sheets outside the stubs of the book we are now looking at, the Barlow book, is divided into three substantially equal, separable parts." A. They are.

Q. 49. State whether or not in that book "the carbon sheet extends the width of two of said parts."

A. Yes, it does, and a little over. It covers two and it is a little bit larger than two.

Q. 50. State whether or not the recording-sheets have stubs to which they are attached along lines of perforation. A. They have.

XQ. 51. State whether or not "the stubs of those recording-sheets and one side of the carbon sheet and backing are all bound together to form a book."

A. The carbon is loose.

Q. 52. State whether or not there is any other distinction notable between the book that you have before you and the paragraphs I have just read to you. A. No.

Q. 53. Now, take Claim 3 of the patent sued on. I will ask you if the manifold book you have before you "comprises in order a double-carbon sheet."

A. It does.

Q. 54. State whether or not it has "a plurality of recording-sheets." A. It has.



(Testimony of John Kitchen, Jr.)

Q. 55. State whether or not "the recording-sheets outside the stubs being divided into three substantially equal separable parts."

A. They are.

Q. 56. State whether or not "the carbon sheet extends the width of two of said parts."

A. It does.

Q. 57. State whether or not "the recording-sheets have stubs to which they are attached along lines of perforation." A. They have.

Q. 58. State whether or not "the stubs and one side of the carbon sheet being all bound together to form a book."

A. No, the carbon sheet is not bound in this.

Q. 59. Did you ever bind carbons into books?

Mr. WHITE.—We object to that as immaterial.

A. Yes, we have.

Q. 60. (By Mr. TOWNSEND.) Did you ever know of carbons being bound into manifolding books when you were learning your apprenticeship?

Mr. WHITE.—That is objected to as indefinite and uncertain as to the form of the manifold book referred to.

A. Yes, I have bound carbons in various forms of manifold books for many years.

Q. 61. (By Mr. TOWNSEND.) State what you mean by "bound carbons."

A. A bound carbon is a carbon wired or sewed into the book whereby it cannot be removed without being torn out or destroying the elements of the binding.

(Testimony of John Kitchen, Jr.)

Q. 62. Are there any distinctions made in the bookbinding business between bound carbons and loose carbons?

A. In the bookbinding art there are two kinds of books, known as a bound book and a loose leaf book.

Q. 63. What class does your exhibit "A," belong to?      A. The loose leaf.

Q. 64. State whether or not you bound carbons into manifold books earlier than January 1, 1899.

Mr. WHITE.—We object to that as indefinite and uncertain as to the particular form of manifold book referred to.

A. I did.

Q. 65. I understand you to say you have made books like the Barlow patent and the exhibit 13 as early as that last-named date.

Mr. WHITE.—We object to that as leading.

A. Yes, I have, as far back as 20 or 25 years ago.

Q. 66. (By Mr. TOWNSEND.) From your knowledge and experience of the bookbinding art state whether or not you would have considered you had discovered something new by binding the Barlow carbon into the old Barlow book.

Mr. WHITE.—We object to that as immaterial.

A. I would not.

Q. 67. For what reason?

Mr. WHITE.—We make the same objection.

A. There is nothing to do except to stitch the carbon in. The principle of inter-leaving is a thing that was in vogue years ago in duplicate systems, and was used that way. The Abraham book had a car-

(Testimony of John Kitchen, Jr.)

bon bound in. Doughty has a triplicate book with the carbon bound in.

Q. 68. I read you Claim 4 of the patent sued on, Mr. Kitchen, and ask you if the exhibit 13 before you and the Barlow patent, exhibit 1, show “a manifold book comprising in order a double-carbon sheet.”

Mr. WHITE.—We object to that as leading.

A. I don’t catch the drift of that.

Q. 69. (By Mr. TOWNSEND.) Do they show “a plurality of recording-sheets”?

A. Yes, they both do.

Q. 70. State whether or not it shows each of said “sheets outside of the stub being divided into a plurality, not less than three, of substantially equal separable parts.”

A. More than three.

Q. 71. Do they show “the carbon sheet extending the width of said parts, except the outermost”?

Mr. WHITE.—We make the same objection.

A. They do.

Q. 72. Do “the recording-sheets have stubs to which they are attached along lines of perforation”?

Mr. WHITE.—We make the same objection.

A. They have.

Q. 73. (By Mr. TOWNSEND.) State whether or not “the stubs and one side of the carbon sheet are bound together to form a book.”

Mr. WHITE.—We make the same objection.

A. They are not.

Q. 74. (By Mr. TOWNSEND.) State whether or not you see any other difference between the Barlow book and the description I have just read other

(Testimony of John Kitchen, Jr.)

than the matter of binding the carbons.

A. What is the description? That is what I want.

Q. 75. The description of this claim I have just read to you? A. The Barlow book?

Q. 76. No, Claim 4. I have just read Claim 4 and you have found various elements as I read it, as I read them separately, in the Barlow book, and you stated that the Barlow carbons were not bound in?

A. Well, the claim says the carbons and stubs are all bound together.

Q. 77. I was asking if there was any distinction other than that between the claim, the elements of the claim just read?

A. What claim are you reading from? What patent?

Q. 78. Claim 4. A. What is that?

Q. 79. I have been referring to the Levison patent. I had read Claim 4 of the Levison patent sued on, and had pointed out the different elements in that claim in the Barlow book.

A. In comparison with the Barlow book?

Q. 80. Yes. When I read the phrase, whether the stubs and one side of the carbon sheet were all bound together to form a book, you stated that the carbons were not all bound together in that exhibit 13, or in the Barlow book. I merely asked if there was any other difference than what I have read?

A. There are no backing sheets in this, which the Levison patent claims.

Q. 81. Then the backing sheets were not included



(Testimony of John Kitchen, Jr.)

in that Claim 4?

A. Not in that Claim 4.

Q. 82. I will ask you to explain in regard to Claim 5. I will read the Claim 5 to you of the Levison patent, and ask you if the Barlow patent or the Barlow book, exhibit 13, is "a manifold book comprising in order a double carbon sheet."

Mr. WHITE.—We object to that as leading.

A. It has a double carbon sheet.

Q. 84. (By Mr. TOWNSEND.) State whether or not it has "a plurality of recording-sheets."

Mr. WHITE.—We make the same objection.

A. It has.

Q. 85. (By Mr. TOWNSEND.) State whether or not "each recording-sheet outside the stub is divided into a plurality not less than three of separable parts joined along lines of perforation."

Mr. WHITE.—We make the same objection.

A. It has.

Q. 86. (By Mr. TOWNSEND.) State whether or not "each part being not greater than the part next it on the side toward the stub."

Mr. WHITE.—We make the same objection.

A. The same.

Q. 87. (By Mr. TOWNSEND.) State whether or not "the carbon sheet extends the width of the whole of said parts except the outermost."

Mr. WHITE.—We make the same objection.

A. It does not. It covers two sections.

Q. 88. (By Mr. TOWNSEND.) I will read that again. State whether or not the carbon sheet

(Testimony of John Kitchen, Jr.)

in exhibit No. 13 extends the width of the whole of said parts except the outermost.

Mr. WHITE.—The question is a repetition of the former question and is objected to on the same ground, and also on the ground that the witness has also answered the question.

A. It does not. It extends from the back, the edge of the back, to the third perforation, to the line of the third perforation. It is sufficiently large to cover two sections and a little over.

Q. 89. (By Mr. TOWNSEND.) Is there more than one section uncovered by the carbon?

Mr. WHITE.—We object to that as leading.

A. There is only one section remains uncovered.

Q. 90. (By Mr. TOWNSEND.) Are there more than one uncovered?

Mr. WHITE.—We make the same objection.

A. No, only one.

Q. 91. (By Mr. TOWNSEND.) I will read the question again to you. Does that book, exhibit 13, show “a carbon sheet extending the width of the whole of said parts except the outermost part”?

A. It does.

Q. 92. And do you wish your previous answers corrected?      A. I do.

Q. 93. State whether or not “the recording-sheets have stubs to which they are attached along lines of perforation.”

Mr. WHITE.—We object to that as leading.

A. They have.

Q. 94. (By Mr. TOWNSEND.) State whether

(Testimony of John Kitchen, Jr.)

or not "these stubs and one side of the carbon sheet are all bound together to form a book."

Mr. WHITE.—We make the same objection.

A. The carbon sheet is not bound in.

Q. 95. I show you the patent of Doughty, exhibit No. 2, Mr. Kitchen, and ask you if you are familiar with that? A. Yes.

Q. 96. I ask you if that is a manifold book?

A. Yes, it is.

Q. 97. Does it show a double carbon sheet?

A. It does.

Q. 98. Does it show a plurality of recording-sheets? A. It does.

Q. 99. State whether or not it shows a cardboard backing. A. It does.

Q. 100. What do you call a cardboard backing?

A. I call a cardboard backing in this case the binding of the book, the board that is put on to protect the leaves.

Q. 101. Which one of the covers would that ordinarily be?

A. That would be the back cover, or both. The back cover or the front cover. Both protect the leaves, and one could be used as a stop-card.

Q. 102. State whether or not in the Doughty the recording-sheets outside of the stub are divided into three substantially equal separable parts.

A. They are.

Q. 103. State whether or not the carbon sheet extends the width of two of said parts.

A. It does.

(Testimony of John Kitchen, Jr.)

Q. 104. State whether or not the recording-sheets have stubs to which they are attached along lines of perforation.

Mr. WHITE.—We object to that as leading.

A. They have.

Q. 105. (By Mr. TOWNSEND.) State whether or not these stubs and one side of the carbon sheet and backing being all bound together to form a book.

Mr. WHITE.—We make the same objection.

A. The sheets are wired together and then bound with a clamp to the cover.

Q. 106. (By Mr. TOWNSEND.) And how is the carbon?

A. The carbon is clamped to a spring or rod so that it can be held in place and removable.

Q. 107. And does that work with a rod?

A. It works on a hinge.

Q. 108. I understood you in your last answer to say that the leaves were bound together, Mr. Kitchen?

Mr. WHITE.—We object to that as grossly leading.

A. They are bound to the cover.

Q. 109. (By Mr. TOWNSEND.) How are the leaves bound together?

A. The leaves are wired together and fastened to the cover with a clamp.

Q. 110. What kind of a clamp would you call that?

Mr. WHITE.—We object to that as grossly lead-



(Testimony of John Kitchen, Jr.)

ing, the witness having stated very definitely and clearly that the leaves are bound to the cover by a clamp, and there can be no misunderstanding on the part of counsel what kind of clamps the leaves are bound together with. The question is a mere suggestion to the witness to change his testimony.

A. The leaves are wired, stitched together, and held to the cover by a clamp, a spring clamp.

Q. 111. (By Mr. TOWNSEND.) I will read you from Claim 3 of complainant's patent sued on, and ask you if the Doughty book as shown by the patent before you and the model exhibit 10 shows a double carbon sheet? A. It does.

Q. 112. State whether or not it shows a plurality of recording-sheets. A. It does.

Q. 113. State whether or not the recording-sheets outside the stubs are divided into three substantially equal separable parts.

Mr. WHITE.—We object to that as leading.

A. They are.

Q. 114. (By Mr. TOWNSEND.) State whether or not the carbon sheet extends the width of two of said parts.

Mr. WHITE.—We object to that as leading.

A. It does.

Q. 115. (By Mr. TOWNSEND.) State whether or not the Doughty device shows recording-sheets having stubs to which they are attached along lines of perforations. A. They have.

Q. 116. State whether or not the stubs and one

(Testimony of John Kitchen, Jr.)

side of the carbon sheet are bound together to form a book.

Mr. WHITE.—I make the same objection.

A. They are.

Q. 117. (By Mr. TOWNSEND.) Reading from Claim 4 of complainant's patent I will ask you if the Doughty patent and model referred to shows a double-carbon sheet? A. It does.

Q. 118. Does it show a plurality of recording-sheets? A. It does.

Q. 119. Does it show each of said sheets outside of said stubs being divided into a plurality of not less than three substantially equal separable parts?

Mr. WHITE.—We object to that as leading.

A. It does.

Q. 120. (By Mr. TOWNSEND.) State whether or not it shows the carbon sheet extending the width of said parts except the outermost.

Mr. WHITE.—We make the same objection.

A. It does.

Q. 121. (By Mr. TOWNSEND.) State whether or not it shows said recording-sheets having stubs to which they are attached along lines of perforation.

A. It does.

Q. 122. State whether or not said stubs and one side of the carbon sheet are all bound together to form a book?

Mr. WHITE.—We object to that as leading.

A. It does.

Q. 123. I read now from Claim 5 of complainant's patent and ask you if the Doughty patent and

(Testimony of John Kitchen, Jr.)

exhibit referred to show a manifold book comprising in order a double carbon sheet?

A. It does.

Q. 124. And a plurality of recording-sheets?

A. It does.

Q. 125. Each sheet outside the stub, each recording-sheet, being divided into a plurality not less than three of separable parts joined along lines of perforation? A. It does.

Q. 126. State whether or not it shows each part being not greater than the part next it on the side toward the stub. A. It does.

Q. 127. State whether or not in the Doughty the carbon sheet extends the width of the whole of said part except the outermost. A. It does.

Q. 128. State whether or not it shows a recording-sheet having stubs to which they are attached along lines of perforation. A. It does.

Q. 129. State whether or not in the Doughty these stubs and one side of the carbon sheet are all bound together to form a book?

Mr. WHITE.—We object to that as leading.

A. It does.

Q. 130. (By Mr. TOWNSEND.) Mr. Levison has previously testified in this case that he has practically the monopoly of the triplicate shipping receipt business, and that he controls from 75 to 90 per cent of the trade in this city. Have you any knowledge as to the fact?

A. Oh, I know that some of the largest dealers in the town do not handle his books.

(Testimony of John Kitchen, Jr.)

Q. 131. Will you state whether or not you think his statement is correct?

A. I do not think it is correct.

Q. 132. Do you think it is approximately correct?

Mr. WHITE.—We object to that question on the ground that no proper foundation has been laid, it not being shown that the witness is in a position to judge of the fact.

A. I don't think it is.

Q. 133. (By Mr. TOWNSEND.) State whether or not in your opinion Mr. Levison's company has practically the monopoly of that trade.

Mr. WHITE.—We object to that on the ground that no proper foundation has been laid, and that it is calling for a mere conclusion of the witness.

A. No, I would not say that he has. Owing to the size of his plant I don't see how he could.

Q. 134. (By Mr. TOWNSEND.) If his book has met with popularity and success, state what in your opinion you attribute that to?

Mr. WHITE.—We object to that as calling for a mere conclusion of the witness, no proper foundation having been laid.

A. It is attributable to his specializing, making a *speciality* of one thing, going out and working with good salesmen, working on one thing. I have done the same thing on different lines specialized on them and made a success of them.

Q. 135. (By Mr. TOWNSEND.) Do you attribute his success to his patent or to his business



(Testimony of John Kitchen, Jr.)

ability?           A.   To his business ability.

Mr. TOWNSEND.—Take the witness.

Cross-examination.

(By Mr. WHITE.)

XQ. 1.   How is the carbon bound in the Doughty book, Mr. Kitchen?   By what means?

A.   It is fastened, clamped to the rims by a spring.

XQ. 2.   By a spring clamp?

A.   A spring of some form, yes.

XQ. 3.   You say it is bound in the book?

A.   I say that it is an ordinary spring.

XQ. 4.   You say it is bound in the book?

A.   Bound by a spring, yes.

XQ. 5.   How do you reconcile that statement with your definition of your understanding of the word “bound” that you have given on direct examination?

A.   “Bound” is something that is secured by a mechanical device whereby you have to undo a spring or a screw or a wire, if it is wired on the side.

XQ. 6.   I thought you said you would have to destroy the carbon if it was bound in?

A.   This is a removable carbon.

XQ. 7.   I thought you said if the carbon was bound in the book it was necessary to destroy it in order to remove it?           A.   I did.

XQ. 8.   So that in the Doughty patent you would have to destroy it?

A.   I said in the Doughty book the carbon was bound in by a clamp and I also said that when the carbon was bound in the book it would be necessary

(Testimony of John Kitchen, Jr.)

to destroy it in order to remove it.

XQ. 9. If you remove it from the Doughty book you would have to destroy it?

A. Yes, but if there was a removable carbon, when it was worn out of course it could be torn out and another one put in its place.

XQ. 10. Do you think that is an answer to my question? A. I do.

XQ. 11. How do you reconcile your definition of the word "bound" where you apply it to that book, with your statement—the Doughty book and the Levison book?

A. Certainly my carbon is not bound in.

XQ. 12. You say that in your book the carbon is held in place as firmly as though it was originally bound in when the book was made up? Is that your statement?

A. Yes, it is removable but without any mechanical device or binding.

XQ. 13. What do you mean by using the word "original" in that statement in your patent where you say the carbon is held firmly in place, just as firmly as though they had been bound in the book originally?

A. Well, it holds it in place firmly.

XQ. 14. In other words, you mean after the book is bound up it is bound in place?

A. The carbon can be inserted in any other place you want to put it.

XQ. 15. So in your book the carbon is not bound in place or held in place until after the book is made

(Testimony of John Kitchen, Jr.)

up? A. The book is made first.

XQ. 16. Then the carbon is bound in by being inserted?

A. The carbon is inserted any place you wish to put it. It can be taken out and removed and another sheet put in, if you wish to do so.

XQ. 17. What is the purpose of holding the carbon in your book firmly in place?

A. The object is to keep the carbon from flying away or dropping out.

XQ. 18. You considered it of sufficient importance, did you not, to construct your book in a much more expensive manner than you would have constructed it with your carbons inserted loosely? Is that the fact?

A. In this way, the carbon is always there.

XQ. 19. Is that of any importance to the user of the book?

A. It is. He knows his carbon is there and it does not fly away or get loose.

XQ. 20. Do the users of the book demand such a form of book?

A. I am just introducing this now.

XQ. 21. Do you find it being accepted very readily by merchants?

A. I can't tell as yet, because I have not put in any of them. I have not introduced them to any extent.

XQ. 22. Why did you get up this form of book in which the carbon is held firmly in place? Did you ascertain from the users of the books that they de-

(Testimony of John Kitchen, Jr.)

sired such a kind of book?

A. No, it was purely my own idea. I looked over the matter, and I made various models and things, and finally I thought I had something of value.

XQ. 23. You thought that there was something of value?

A. I thought it was, because I went and paid an attorney, I went to a patent attorney when I thought I had got it perfected.

XQ. 24. In the Barlow patent could you remove the carbon from between any of the leaves and place it in any other portion of the book?

A. Yes, but the wind would blow the carbon out and it might be lost.

XQ. 25. Is that a defect in the Barlow book?

A. Well, no, not if a person wants to handle it in that way. There is lots of Barlow books used to-day.

XQ. 26. In your judgment, is that a defect in the Barlow book?

A. Well, no, not in the Barlow book; it is not considered a defect.

XQ. 27. If it is not considered a defect in the Barlow book, why don't you go to the trouble to put these improvements in your book to hold the carbon in place?

A. Because I thought we had something better.

XQ. 28. Did you think the Barlow book was defective?

A. I thought I had made an improvement on the Barlow.



(Testimony of John Kitchen, Jr.)

XQ. 29. And your improvement consists, does it not, in holding the carbon in place in the book?

A. Holding it, no. It is removable. It is not held in there. It can be moved to any portion of the book.

XQ. 30. The carbon in the Barlow book is removable and can be transferred from between two sheets to another two sheets in the book, so that your book is not any different from the Barlow book in that particular, is it?

A. It is different in various respects, in that the carbon can be taken out and removed from one sheet to another, and it will not blow away.

XQ. 31. What you have said is true of both books, that the carbon may be removed from between two sheets in your book and replaced between two sheets, any other two sheets of your book, and always the carbon can be removed in the Barlow book in the same way, and replaced between any other two sheets of the book? A. Yes.

XQ. 32. Your book differs from the Barlow book just in the particular I have stated, that is, that the carbon is held in place firmly, so that it will not blow away?

A. No, it is held in place. I don't know what term you would use; but it is held in place temporarily. The carbon is removable, whereas in the Barlow book if you were to insert a leaf of the carbon in separately and leave the cover open the carbon would disappear.

XQ. 33. So that the only difference between your

(Testimony of John Kitchen, Jr.)

book and the Barlow book is that the carbon of your book is held firmly in place whereas in the Barlow book it is not held firmly in place?

A. No, my carbon is attached to the stub.

XQ. 34. Your carbon is attached to the stub simply in order that it may be held firmly in place?

A. Yes.

XQ. 35. Is that the only difference between your book and the Barlow book, that in yours it is held firmly in place and in the Barlow book it is not held firmly in place?

A. I will not say that it is held so firmly as not to be removable.

XQ. 36. You do not use the word "firmly" because you are apprehensive that such an expression as that would be considered as equivalent to using the word "bound." Is that correct?

A. No, it is not that, because anything that is—well, I don't know just how I could explain it. Anything that is held firm I would not judge would be removable. If it is held firm it would not be removable.

XQ. 37. Did you state, Mr. Kitchen, that you submitted to the Board of Supervisors or to the printing committee of the Board of Supervisors a sample constructed like Complainant's Exhibit "A"?

A. Yes, it was unprinted.

XQ. 38. Do you mean to say that in that sample that you submitted the carbon was attached to a piece of cardboard in the manner that it is attached in exhibit "A"?

(Testimony of John Kitchen, Jr.)

A. Yes, the same manner as that there, exactly.

XQ. 39. That was the form of book that you submitted on your original bid?

A. That is the one.

XQ. 40. You are certain that this sample that you first submitted to the city with your original bid, the carbon was attached to the piece of cardboard and was not simply a loose piece of carbon as found in the Barlow book?

A. No; I will further state that those samples went before the printing committee of the Board of Supervisors and were passed on.

Q. (By Mr. TOWNSEND.) Your answer, Mr. Kitchen, appears to say that you did not submit the samples.

A. I did submit the samples of the books, because the specifications called for samples to be submitted with the bid.

Q. Do you wish to have your previous answer corrected?

A. Yes, but I did not submit a looseleaf carbon. I submitted a book after that style.

Q. Referring to exhibit "A"?

A. Exhibit "A."

XQ. 41. (By Mr. WHITE.) Did you ever make any efforts to sell to the city manifolding books containing loose carbons?

A. No, I have sold to the city duplicating sets with loose carbons. I will correct that.

XQ. 42. Duplicating books?

A. Duplicating books with loose carbons.

(Testimony of John Kitchen, Jr.)

XQ. 43. But not triplicating books?

A. Not triplicating books, no.

XQ. 44. Do you know how the firm of A. Schilling & Co. used these Barlow books, whether with double carbons or two single semi-carbons?

A. They use them with double carbons, undoubtedly. I could not say for sure whether they do or not.

XQ. 45. Isn't it a fact that for years the Barlow book was used with two semi-carbons and not with one double carbon?

Mr. TOWNSEND.—We object to that as immaterial and not cross-examination.

A. I have used them with both.

XQ. 46. (By Mr. WHITE.) Why were two semi-carbons used in place of one double carbon?

A. I could not explain why they used them in that way. They were used, I think, more with the two semi-carbons after the patent was sold to Payot, Upham & Co.

XQ. 47. Do you know what the patent sold for?

A. For about \$20.

XQ. 48. For about \$20?

A. Yes, I think for about \$20.

Mr. WHITE.—That is all.

Mr. TOWNSEND.—That closes our case.

(Further hearing continued subject to notice.)



(Testimony of H. E. F. Williams.)

Thursday, May 20, 1909, 10 A. M.

Counsel appearing:

W. K. WHITE, Esq., of MILLER & WHITE,  
Solicitors for Complainant.

C. E. TOWNSEND, Esq., Solicitor for Defendant.

Mr. TOWNSEND.—Mr. White and I have a stipulation whereby there will be introduced in evidence a specimen of the Levison shipping receipt-book built in accordance with this patent here in suit. Its introduction in our testimony was overlooked. I ask that it be marked for identification.

(Marked Defendant's Exhibit No. 14.)

**[Testimony of H. E. F. Williams, for Complainant  
(in Rebuttal).]**

Examination-in-chief of H. E. F. WILLIAMS,  
called for complainant in rebuttal, sworn.

(By Mr. WHITE.)

Q. 1. State your name, age, resident and occupation.

A. My name is H. E. F. Williams. My age is 53. My residence is 137 Devisadero street. My business is a binder and printer with the Levison Printing Co.

Q. 2. How long have you been connected with business of that character, Mr. Williams?

A. Fully 25 years.

Q. 3. You are now in the employ of the Levison Printing Co., are you not?

A. Yes, sir.

(Testimony of H. E. F. Williams.)

Q. 4. That company is engaged in selling triplicate shipping receipt books, is it not?

A. Yes.

Q. 5. Of the character embodied here in Defendant's Exhibit No. 14, which book has just been put in evidence?

A. The same as that.

Q. 6. You have recently made an investigation, have you not, of the business portion of this city and county to ascertain to what extent books of the character of exhibit No. 14 are used?

Mr. TOWNSEND.—We object to that as leading, not rebuttal testimony, and as irrelevant and immaterial to any issue in the case.

A. Yes.

Q. 7. (By Mr. WHITE.) Just state briefly the manner in which you made that investigation to ascertain the general use of the book of the character referred to.

Mr. TOWNSEND.—We object that no proper foundation has been laid for the question.

A. In the usual vocation of soliciting which I had regularly. I solicit the town for those books.

Q. 8. (By Mr. WHITE.) In making this investigation did you keep any track of the result of your investigation, and note the same down in written entries?

Mr. TOWNSEND.—We object to that as leading.

A. I did.

Q. 9. (By Mr. WHITE.) I hand you a statement, Mr. Williams, and ask you if the same discloses the result of your investigations along that line?

(Testimony of H. E. F. Williams.)

Mr. TOWNSEND.—We object to that as leading and on the ground that no proper foundation has been laid, and that it is wholly incompetent, irrelevant and immaterial, and not rebuttal testimony.

A. Yes, this is an exact copy.

Q. 10. (By Mr. WHITE.) Just state what these various sheets that I have handed you disclose.

Mr. TOWNSEND.—We make the same objection.

A. In order to be thorough I started on one street, say Pacific street, and I would go up one side and down the other. I would go into every house, irrespective of the fact whether I knew they used our book or not; and I continued on all the streets parallel with Market, down to Market, then I crossed over and went along every street parallel with Market, south of Market, and I stopped at every business house on the streets that run parallel with Market, down to 9th and 10th and Brannan; in fact, to the waterfront, Channel street, I think they call it, parallel with Brannan; then I took in all the Mission district; then I took a scattering list, wherever I could rake up any commercial houses on any of the streets, any houses of any kind or shape at all, and this is the result of my work. In addition to that I took all the streets from East street, Davis and Drumm and Front and Battery, clear up to Market, on the north of Market; then on the south of Market I took in East street and every street running up to East and covered every house that I could possibly find, that did any shipment or occupied any

(Testimony of H. E. F. Williams.)

position in the commercial world.

Mr. TOWNSEND.—I give notice of motion to strike out the answer as wholly irrelevant to any issue in the case. It is an attempt to prove the popularity and the general use of this book. And I would say that that matter was brought up directly by the complainant himself in his testimony in chief, and that it is in no wise proper rebuttal testimony on any ground.

Q. 11. (By Mr. WHITE.) On the first page of this statement, Mr. Williams, I find a list of the various business houses doing business in this city on Mission street. Do I understand that in making your investigation you started at the foot of Mission street on one side and went out and then went on the other side and went back to the foot of Mission street and inquired of each and every house doing a commercial business along that street, to ascertain what character of shipping-book was used by them?

Mr. TOWNSEND.—We object to that as leading, and on the same grounds as stated heretofore in the previous motion.

A. That was the method I followed, yes.

Q. 12. (By Mr. WHITE.) I find here at the top of column 1 the word "Peerless." Does that word refer to the book disclosed here in Defendant's Exhibit No. 14? A. It does.

Q. 13. The first name in this list I find to be Whittier, Coburn Co., and opposite such name the figure 1, under column 1, which is headed with the word "Peerless." Do I understand that from your



(Testimony of H. E. F. Williams.)

investigation that you found that the Whittier, Coburn Co. were using the Peerless book exclusively in their shipping department?

Mr. TOWNSEND.—We make the same objection; leading; it has no bearing on the issues of the case.

A. Yes, sir; that is the plan that was outlined in that memorandum.

Q. 14. (By Mr. WHITE.) I understand, then, that the figure 1 in the first column under the word “Peerless” at the head of such column and opposite the name Whittier, Coburn Co. means that that company uses a Peerless book exclusively in its shipping department. Is that correct?

Mr. TOWNSEND.—We make the same objection.

A. Yes.

Q. 15. (By Mr. WHITE.) At the head of column 2 in this statement I find the word “Machine.” What do you mean by such a word?

A. That there is a machine used for shipping purposes, and wherever I found it used I designated it by putting the figure 1 in the column under the caption “Machine.”

Q. 16. At the head of the 3d column I find the word “Duplex” used. Will you state what significance that has in this statement?

Mr. TOWNSEND.—We object to that as incompetent, irrelevant, and immaterial, and not rebuttal.

A. That is a heading to indicate wherever I found the Duplex book.

(Testimony of H. E. F. Williams.)

Q. 17. (By Mr. WHITE.) In other words, wherever you found a Duplex book used as a shipping-book you designated that fact in the third column of this statement?

Mr. TOWNSEND.—We object to that on the ground that no Duplex book is in issue.

A. Yes, I did. When I came across a Duplex book I gave credit for the book to that customer in that column.

Q. 18. (By Mr. WHITE.) What do you mean by the expression “Duplex Book”?

A. Well, that is generally used to designate what we call a full canvas-bound book for shipping receipt purposes. It is a short, small book, what we call “one on”; one receipt on a page, and bound with full canvas. Allow me to describe that book more fully—the Duplex.

Q. 19. Yes, describe the book which you refer to and designate as Duplex in the third column of this statement.

A. There were two yellow leaves and one leaf of parchment and used with a loose carbon.

Q. 20. I hand you a receipt-book and ask you if the same corresponds to your understanding and use of the word “Duplex” in this statement, and ask you whether or not such word “Duplex” is supposed to cover a book of the character which I have just handed you?

Mr. TOWNSEND.—We object to that because the book referred to is not shown or alleged to be either the book of complainant or defendant, and

(Testimony of H. E. F. Williams.)

any question pertaining thereto and any answer in response to such question can have no possible bearing on this case.

A. Yes, this is the style of book which I have there designated as the Duplex, to distinguish it from the others.

Mr. WHITE.—I ask that this book be marked with the letter “G” for purposes of identification. I will hereafter offer it in evidence.

Mr. TOWNSEND.—The introduction of exhibit “G” for identification is objected to as having no bearing on the case, and as irrelevant and immaterial.

(Marked Complainant’s Exhibit “G” for Identification.)

Q. 21. (By Mr. WHITE.) I hand you another book, Mr. Williams, and ask you if such style of book is also included by you in the expression “Duplex” at the head of the third column of your statement?

A. Yes. I refer to the Duplex to distinguish it from the Levison.

Mr. WHITE.—I ask that this book be marked by the letter “K” for identification. I will hereafter introduce it in evidence.

Mr. TOWNSEND.—The same objection is made to this as was made to exhibit “G” for identification.

(Marked Complainant’s Exhibit “K” for identification.)

Q. 22. (By Mr. WHITE.) I hand you another

(Testimony of H. E. F. Williams.)

book, Mr. Williams, and ask you if such character of book is also included by you in the expression "Duplex" as used in your statement.

A. Yes.

Mr. WHITE.—I ask that that be marked with the letter "E" for purposes of identification.

Mr. TOWNSEND.—We make the same objection to this exhibit.

(Marked Complainant's Exhibit "E" for identification.)

Q. 23. (By Mr. WHITE.) I hand you another book, Mr. Williams, and ask you if such book was also included by you in the expression "Duplex" in your statement.

A. Yes, also that.

Mr. WHITE.—I ask that this book be marked with the letter "F" for purposes of identification.

Mr. TOWNSEND.—We make the same objection.

(Marked Complainant's Exhibit "F" for identification.)

Q. 24. (By Mr. WHITE.) As I understand you, Mr. Williams, in your investigation wherever you found a commercial house using any one of the books introduced here for purposes of identification you credited up such use in your statement by inserting therein, in column 3, under the expression "Duplex" the figure 1. Is that correct?

A. That is correct.

Q. 25. At the head of column 4 of your statement I find the words "Baker & Vater." I will ask you to state what significance such words have in your



(Testimony of H. E. F. Williams.)  
statement, and to what they refer?

Mr. TOWNSEND.—The same objection is made as has been made previously to this line of questioning; and I would like to have it understood that my objection shall run to all questions in this line, on the grounds previously stated.

Mr. WHITE.—It is so understood.

A. That is a book that is made in the East, which they are selling out here. Wherever I found one I would credit it to that maker, Baker & Vater, under that column.

Q. 26. (By Mr. WHITE.) Will you describe such book that you characterize in that statement by such words as Baker & Vater?

A. Well, it is a shipping receipt-book, and it is bound with two receipts on a page, side by side, and they use a loose carbon paper. The chief benefit I find from that, is that they could put two receipts on a sheet, of different people, different houses.

Q. 27. On the first page of this statement I find the total under column 1, which is headed by the word "Peerless" as 61. Under column 2 I find "7" and under column 3 the total is 4. Do I understand that in your investigation in regard to the use of the various books by the firms named on this first page of this statement, you found that 61 of said firms used the Peerless book, that 7 of said firms used the Machine and that 4 of said firms used a style of book characterized by you as the Duplex?

Mr. TOWNSEND.—We object to that as grossly leading and immaterial.

(Testimony of H. E. F. Williams.)

A. Yes, that is correct.

Q. 28. (By Mr. WHITE.) So that you found, so far as the first page of this statement is concerned, that out of the 72 houses that you visited that 61 of said houses used the Peerless book which is the book, as I understand it, covered by the patent in suit?

A. Yes.

Q. 29. And that 7 of those houses used the Machine and 4 of those houses used the Duplex book? Is that correct?

A. That is correct.

Q. 30. Are the various subsequent pages of this statement gotten up in the same way and do they have the same significance as the first page thereof?

A. Yes, exactly, in the same manner.

Q. 31. On the last page of your statement I find under the heading "Recapitulations" a statement "Peerless (exclusive) 547." By that expression do you mean to say that out of all the commercial houses you visited you found that 547 of the same used the Peerless book exclusive of any other style of book?

Mr. TOWNSEND.—We object to that as leading, irrelevant and immaterial; not rebuttal. No proper foundation laid.

A. Yes, that is correct.

Q. 32. (By Mr. WHITE.) The next statement I find to be "Peerless (combined) 33." What is the meaning of such statement?

Mr. TOWNSEND.—We make the same objection.

A. That is where they used other books in addition to using the Peerless; saying that they still used

(Testimony of H. E. F. Williams.)

the Peerless although they had the other book, some other style.

Q. 33. (By Mr. WHITE.) I find the next statement to be "Stationers selling Peerless, 19." What is the meaning of such statement?

A. That shows that there are 19 stationers that carry that book in stock, owing to the demand.

Q. 34. I find the next statement to be "Total Peerless 599." What do you mean by that statement?

Mr. TOWNSEND.—We make the same objection, as not rebuttal; no foundation laid.

A. That is to show the total number of Peerless used in connection with the whole amount canvassed.

Q. 35. (By Mr. WHITE.) The next statement I find to be "Machine (exclusive) 21." What do you mean by such statement?

A. Out of that amount that there were 21 Machines used.

Q. 36. As I understand it, then, out of all the commercial houses that you visited in making this investigation you found that 21 of those houses used the Machine exclusive to other means of making their receipts? A. Yes.

Q. 37. I find the next statement to be "Machines (combined) with Peerless, 23." What do you mean by such statement?

A. That that amount of houses using the Machine also used the Peerless in addition to the Machine.

(Testimony of H. E. F. Williams.)

Q. 38. The next statement I find to be "Total 44 Machines." What do you mean by that statement?

A. That I only found 44 Machines in use in that canvass.

Q. 39. And among the houses using those 44 Machines, as I understand it, you found 23 of them using the Peerless also?

A. In connection with it, yes, sir.

Q. 40. The next statement I find to be "Duplex (exclusive) 50." What do you mean by that statement?

A. In that canvass of this 600-odd I found that number only of Duplex.

Q. 41. As I understand it then, out of the 600 and more houses that you visited in making this canvass you found only 50 of such houses using the Duplex book?

A. That is correct.

Q. 42. I find the next statement to be "Duplex combined with Peerless, 6." What do you mean by that statement?

A. That is houses using the Duplex that are also using the Peerless.

Q. 43. The next statement appears to be "Total, 56 Duplex." What do you mean by that?

A. Out of 600-odd there was only that number of Duplex exclusive.

Q. 44. I find the next statement to be "Baker Varter exclusive, 10." What do you mean by that statement?

A. In that 600-odd there is only 10 Baker Varter.

Q. 45. The next statement I find to be "Baker



(Testimony of H. E. F. Williams.)

Varter combined with Peerless, 4.” What does that mean?

A. In that same canvass, parties using the Baker Varter and also using the Peerless.

Q. 46. I find the next item, “Total, 14. Baker Varter.” Am I to understand by that, that out of the 600 or more commercial houses visited by you, only 14 used the Baker Varter book?

A. That is correct.

Q. 47. I find the next statement to be “McNutt, Kahn, 3.” What do you mean by that statement?

A. That is a shipping-book got up by McNutt and Kahn. I only found 3 in that 600-odd.

Q. 48. Just describe such character of book.

A. It is got up like a pad, with single sheets, using loose carbon; single sheets all gathered together using loose carbon.

Q. 49. I find in the first column of each page of this statement names which appear to be the names of the streets in this city. Am I to understand that the firm names appearing opposite such names appearing in the first column, do business on such respective streets?

A. Yes, that is correct, outside of any typographical error.

Mr. WHITE.—I offer this statement in evidence and ask that it be marked Complainant’s Exhibit “C.”

Mr. TOWNSEND.—We object to the offering in evidence of exhibit “C” on the ground that it is incompetent, irrelevant and immaterial; has no proper

(Testimony of H. E. F. Williams.)

place in rebuttal; it is not shown that this witness prepared it; and I shall move on the final hearing to have all the testimony relating to this matter of the use of these books or any of the books shown by exhibit "C" to be struck out for the reasons hereinbefore previously stated.

Q. 50. (By Mr. WHITE.) Does this statement which has just been offered in evidence correctly disclose the results of your investigation?

A. Yes, it does, correctly. I proof-read them after they came from the stenographer every day.

Mr. TOWNSEND.—This exhibit "C" is further objected to as being secondary evidence.

Q. 41. (By Mr. WHITE.) After visiting these various houses, Mr. Williams, did you keep any memorandum of the results of your investigation?

A. I wrote the name down as soon as I received word, immediately, while entering the house. If they told me they used the Peerless or the Duplex I wrote it down on a list that I kept in my hand as I went along.

Q. 52. And which statement correctly represents the various memoranda and data collected by you in that manner?

A. And turned in every evening to the stenographer, and that I would re-read the proof in the morning to see that she got it correct.

Q. 53. Did the portion of the City and County of San Francisco covered by you in your investigation include the different principal commercial business houses here?

(Testimony of H. E. F. Williams.)

A. It included all of them.

Mr. WHITE.—Take the witness.

Mr. TOWNSEND.—I move that the testimony of this witness be stricken out for the reasons previously hereinbefore stated, and the motion shall be renewed on the final hearing. Without waiving any of these objections, I will ask the witness a few questions.

Cross-examination.

(By Mr. TOWNSEND.)

XQ. 1. I will ask you, Mr. Williams, if you made this canvass quite recently or not?

A. Quite recently; since we last met here.

XQ. 2. As a matter of fact, Mr. Williams, do not these 600 names that you have here practically represent your own customers in this town?

Mr. WHITE.—Necessarily they do, because it appears by this statement that out of the 600 about 550 used the Peerless, manufactured by the Levison Printing Co.

A. That is the answer I was about to make myself.

Mr. TOWNSEND.—The testimony of counsel is objected to.

XQ. 3. Only 600 firms in this city are using shipping receipts?

A. A great many more appear on that list.

XQ. 4. Do you know how many firms there are in this city using shipping receipts?

A. I do not.

XQ. 5. Don't you know, as a matter of fact, that

(Testimony of H. E. F. Williams.)

there are about 5,000 firms in this city?

A. I do not.

XQ. 6. Do you know how many firms you have omitted from this list that are using shipping receipts?

A. I do not. I might say that if there was one firm in town using shipping receipts I would have made it my business to hunt them up very quickly. I could not find any.

XQ. 7. On these pages of your exhibit "C," where I see the names "Mission street," etc., enclosed between arrows, does that represent the business houses of that street?

A. That represents all the large houses of that street that used shipping receipts. I found that a great many of them shipped by Wells, Fargo and a great many of them by expressmen who stood on the corners, carrying a small book; and a great many bought from Eastern houses who shipped direct from the East, and only took orders here.

XQ. 8. Taking Mission street, for example, the divisions of these pages between the streets show the houses that you interviewed on that street?

A. That is right.

XQ. 9. This you have sworn, Mr. Williams, to be a correct statement of the principal houses on these streets using shipping receipts?

A. Everyone that I could possibly find from a house to house canvass.

XQ. 10. On Battery street, I notice you have got some 17 names on pages 4 and 5, by count. That



(Testimony of H. E. F. Williams.)

represents all the business houses on Battery street?

A. That represents all the business houses on that street using shipping receipts that I could find.

XQ. 11. I don't find the name of Zellerbach & Co., paper people.

A. I think they are on our list. I think they use our book.

XQ. 12. You stated that this was a correct statement of the business houses on Battery street, and Zellerbach's name is not on this list.

A. I guess she left that off, because the name went in. I think you will find it.

Mr. TOWNSEND.—I object to the answer as not responsive to the question and move to strike it out.

The WITNESS.—Let me find it. It may be possibly a continuation. You will find in several places where a street is continued on another page.

XQ. 13. Yes. But I am referring to two pages, where Battery street seems to appear on two pages, and Zellerbach's name is not on either of those two pages.

A. They use our receipt-book.

XQ. 14. That is a big house, is it not?

A. That is a big house.

XQ. 15. The biggest paper house in the city?

A. It ranks about that way.

XQ. 16. One of the biggest mercantile firms?

A. Yes.

XQ. 17. Anyone making a list of merchants of this city and mercantile houses would be pretty sure to include Zellerbach's, wouldn't he?

Mr. WHITE.—I refer counsel to the next to the

(Testimony of H. E. F. Williams.)

last page, where he will find Zellerbach's name.

XQ. 18. (By Mr. TOWNSEND.) Also in the Battery street list I notice the omission of the American Biscuit Co. A. Yes.

XQ. 19. Is that an important house?

A. I think you will find them on the list, as a machine user. They use our machine, our Peerless.

XQ. 20. I don't see them on the list. I object to the answer as not responsive to the question and move that it be struck out. I will show that it does not appear on the Battery street list as given.

A. Well, unless it is a typographical error, as I stated; I stated that there might be typographical errors.

XQ. 21. I don't find the name of the Pacific Coast Biscuit Co., which is also on Battery street. I don't find that name on the list.

A. The Pacific Coast? Well, as I say, unless she has left it off the list. The house was visited. They use our machine.

XQ. 22. This list may be incorrect, then?

A. No, the list is correct, as you find it.

XQ. 23. The list is correct?

A. The list is correct as it speaks for itself, in every particular. It is most emphatically correct.

XQ. 24. I don't find any mention there of business houses on Minna street or Tehama street.

A. I would not look there for business houses.

XQ. 25. There are no business houses on Minna street using shipping receipts?

A. I have some of them. If you could give me

(Testimony of H. E. F. Williams.)

the names of those, I could tell you what books they are using.

XQ. 26. How about Jessie street?

A. I have them also there.

XQ. 27. I am talking about the list there. You said that you had a list there of 600 names which are all the main business houses in the city of San Francisco.

Mr. WHITE.—We object to that as a misstatement of the witness' testimony. The witness simply stated that this included all the business houses of the street. His list does not include all the business houses of San Francisco, and was not intended to.

Mr. TOWNSEND.—Then counsel admits that a great many business houses have been omitted?

Mr. WHITE.—The statement speaks for itself.

The WITNESS.—Yes. I went over away to Folsom and I put every one down that used shipping receipts. But, for instance, if a firm fronted on Mission street and their store ran back to another street—say, for instance, Clementina or some little back street—I would put them down on Mission street and would not put them down on the other streets; for instance, Sloane & Co., they run through.

XQ. 28. (By Mr. TOWNSEND.) We will admit that if a business house faces on Mission street and runs through to another street it should only be counted on Mission street; that is all right. But, as a matter of fact, are there not a great many houses that do not have a double frontage, but are on either

(Testimony of H. E. F. Williams.)

Clementina or Tehama or Minna or Jessie or Stevenson?

A. In all those houses you will find them under the head of "Scattering." All the streets are not mentioned there, all the small streets. A number are under the head of "Scattering."

XQ. 29. Do all the business houses use shipping receipts in San Francisco in all of the streets you have mentioned?

A. Those not on the main streets will be found on the "Scattering" list—all big houses of any note.

XQ. 30. Then I notice that there are no North Beach business houses. Do they not use shipping receipts there?

A. I have them under the head "Scattering." I have a great many of them. You will find them on the list. I could tell you if you mention their names.

XQ. 31. How about the Potrero?

A. I have them also down there. They most likely would come under the head of the Mission district, or the Southern district; George Tay & Co., and Carter-Burger and the Pacific Rolling Mills, they all appear there.

XQ. 32. There are big firms using shipping receipts in the North Beach and Potrero and the outlying districts and the side streets, and they are classified under the head of "Scattering," are they?

A. "Scattering," or "Adjacent districts," as soon as I made them up. Of course I could not survey the city. It is a difficult thing to get around when



(Testimony of H. E. F. Williams.)

you go out to those swamps.

XQ. 33. Then this list is incorrect, is it not?

A. No, it is not incorrect. They are all there, though they may not be all there under the heading of the streets. They are under the head of "Scattering" and under the head of different districts, the Mission district, for instance. Furthermore, those streets are put down there as a general guide to the attorneys in the case, or anyone having reference to the sheets.

XQ. 34. I find the name of Murphy, Grant & Co. appearing on the Sansome street list, on page 4. I also find the name of Murphy, Grant & Co. listed under the name "Scattering," on page 9. Will you explain whether that entry is the same one, the same people or not—the same persons?

A. It is a correct entry, though evidently the stenographer got it in twice there.

XQ. 35. One of these names has been duplicated.

A. Among the 600 maybe one or two has been duplicated.

XQ. 36. Just look, please.

A. I will take your word for it, if you say so. It is liable to be.

XQ. 37. I find Murphy, Grant & Co. double-listed in this 600. Is that not a fact?

Mr. WHITE.—The witness has already admitted that. Do you want him to admit it two or three times?

Mr. TOWNSEND.—I repeat my previous motion, that this exhibit "C" be suppressed, as being, first,

(Testimony of H. E. F. Williams.)

improper under the grounds previously stated; second, that it is a false list in that it does not contain a fair or anywhere near a complete list of the business houses in this city employing shipping receipts, and that it in one instance, at least, has a name duplicated.

Mr. WHITE.—Intentionally, I presume, for the purpose of deceiving and imposing on the Court. Is that your position, Mr. Townsend?

Mr. TOWNSEND.—Counsel is not compelled to fix the blame for the error. The effect of the exhibit is to be seen by the Court.

Redirect Examination.

(By Mr. WHITE.)

RDQ. 1. As I understand, the word “Peerless” in this statement comprises a book similar to exhibit 14.

Mr. TOWNSEND.—We object to that as not redirect examination.

The WITNESS.—Yes, it does.

RDQ. 2. (By Mr. WHITE.) In making this investigation I understand you canvassed houses along certain streets. Am I to understand that this statement is supposed to cover and include all the business houses in San Francisco wherever they may be located, whether out in the Richmond district or the Potrero district or along the Barbary Coast, or in any other locality of the city other than those streets stated in the statement?

A. We have some under the head of “Scattering,” which would take the outlying houses, differ-

(Testimony of H. E. F. Williams.)

ent locations, where there would not be enough to make a list of it; there would not be enough to make it worth while to make a list of it. There might be a street where there were one or two houses on it.

RDQ. 3. This list, however, does not pretend to include every business house in San Francisco which uses a shipping receipt-book, does it?

A. No, it is<sup>e</sup> supposed to be all the principal houses in the commercial districts, all the principal business houses in the commercial district.

Recross-examination.

(By Mr. TOWNSEND.)

RXQ. 1. Do you consider the classified columns of the ordinary city directory a fair index and a reasonable and proper list of business houses in the city?

Mr. WHITE.—We object to that as not proper recross-examination.

A. As houses doing any shipping at all, I would not, by any means, from my experience in that canvass. I was surprised by my experience. I could state, if you wish, the different conditions under which houses ship, which appear as commercial shipping houses.

RXQ. 2. (By Mr. TOWNSEND.) In other words, if the city directory classified list showed any considerable number of business houses in this city in excess of the number given in your list, you would consider that classified list wrong?

A. For instance, a great many only do a local business. They don't do any shipping. A great

(Testimony of H. E. F. Williams.)

many ship through Wells-Fargo and by expressmen on the corner. A great many borrow shipping receipts from neighbors. A great many ship by draymen, McNab & Smith, and Rode & Co., and such teaming concerns supply the shipping receipts.

RXQ. 3. Then, there are 5,000 business houses other than the 600 you have mentioned, that use shipping receipts that are furnished by those teamsters, and out of that 5,000 you don't know how many use the Peerless machine?

A. McNab & Smith and Rode and all those teamsters which appear in that list there use our shipping receipts. Any of those 5,000 houses that would be shipping continuously and using receipts furnished by those teamsters would be using our shipping receipts, and any of those that are shipping by Wells-Fargo's use our shipping receipts.

RXQ. 4. As a matter of fact, lots of these teamsters get a book from the railroad companies, a book furnished by the railroad companies, do they not?

A. Well, I could say that those 5,000 that you speak of, if they get shipping receipts from the railroad companies they would appear on that list.

RXQ. 5. A great many more houses than the 600 you have mentioned in your list do shipping and use shipping receipts, do they not?

A. Of course, I don't guarantee this list.

RXQ. 6. A great many teamsters who do shipping are not on your list, are they—a great many teamsters who furnish receipts to houses who do shipping through them?



(Testimony of H. E. F. Williams.)

A. None that do any great amount of business. All the teamsters that do a large amount of business use our shipping receipts; the Morton Delivery Co. and the Union Transfer and the Overland Transfer—all big teaming concerns and companies use our Peerless receipts. Those names are on this list. McNab & Smith's name appears there, and they furnish a large number of shippers. They all use our shipping receipts.

Redirect Examination.

(By Mr. WHITE.)

RDQ. 1. You spoke about "our shipping receipts." What are you referring to?

A. I am referring to the Peerless when I speak of our shipping receipts.

RDQ. 2. Exhibit No. 14?

A. Exhibit No. 14.

RDQ. 3. If you found a commercial house which was not using any receipt-book at all, would you include the name of that house in this statement?

A. I would not put them down in that list. If they told me "McNab does my teaming" I would not put them on my list, as it would appear under the name McNab, and they are using our book, exhibit 14.

RDQ. So you inserted the name of McNab & Smith and other large draying companies who are using the Peerless book, in this list, the book which is covered by the patent sued on, and you mean to say that the use of them includes the use by the various customers that have their shipping done by

(Testimony of H. E. F. Williams.)

those large draying firms.

A. Yes. I only put down the names of the draying firms. I didn't put down the names of the houses that did the shipping through those draying firms.

RDQ. 5. McNab & Smith are using the Peerless book, and they furnish it to those various customers, then, do they not?

A. Yes, and the names of those customers do not appear on that list as users.

RDQ. 6. So that when you have included the name of McNab & Smith and of other large draying concerns in this statement as being users of the Peerless book, those names, as a matter of fact, include necessarily the various customers who patronize them, as users of such books, does it not?

Mr. TOWNSEND.—We object to that as leading, and not redirect examination, and as a contradiction in fact of the exhibit "C," and of this witness' previous testimony where he stated that he had listed all the business houses in this city using shipping receipts and have credited them accordingly as to the nature of the shipping receipts which they use.

Mr. WHITE.—The witness has made no such statement. He simply stated that he covered certain districts.

RDQ. 7. Is your testimony in regard to McNab & Smith correct when applied to various other concerns doing a drayage business in this city?

Mr. TOWNSEND.—We make the same objection.

A. Yes, sir. Also Farnsworth & Ruggles and

(Testimony of H. E. F. Williams.)

the Western Transfer Co., all under the same conditions as McNab & Smith, using the Peerless, exhibit 14.

RDQ. 8. As I understand it, then, these various houses who ship through those drayage firms are all furnished with receipts by such firms. Is that correct? A. Yes; that is correct.

Mr. WHITE.—That is all.

**[Testimony of Harry Levison, for Complainant (in Rebuttal).]**

Examination-in-chief of HARRY LEVISON,  
called for complainant in rebuttal; sworn.

(By Mr. WHITE.)

Q. 1. State your name, age, residence and occupation.

A. Harry Levison; age 31; I reside at 1570 Grove; with the Levison Printing Co.

Q. 2. Your company has been engaged for some time in the manufacture and sale of shipping receipt-books, has it not? A. It has.

Q. 3. How long have you been connected with such company? A. Since about 1895.

Q. 4. During that period have you become familiar with the various types and styles of shipping receipt-books which have been put on the market in this city and county? A. I have.

Q. 5. I desire you to briefly give the history of these various shipping books that have been put on the market and trace the evolution in the art up to the present time; and in doing so I will first refer to

(Testimony of Harry Levison.)

the shipping receipt-book which I now hand you, and ask you to state what character of book the same is, and how it is used.

A. This is a book that was used at the time and prior to the time I went into the printing business. It has three receipts printed alongside one another, on one sheet of paper, and the various sheets bound in book form. The manner of using this book was by writing the receipt three different times. It is a book that I would consider to be the first book used for shipping receipts and the most crude book of all.

Q. 6. As I understand you, in the use of this book no carbon is used?

A. No carbon at all. The receipts are written three times.

Q. 7. So that instead of making one entry in this book it was necessary to make three entries in order to get your three receipts. Is that correct?

A. It is.

Mr. WHITE.—I offer that book in evidence and ask that it be marked Complainant's Exhibit "D."

(So marked.)

Q. 8. In continuing your description of the development of this particular art I now refer you to another book and ask you to describe what the same is and how it is used.

A. This book has the receipts printed on three different kinds of paper, that is to say, there is one receipt on a yellow sheet, one on a pink or other colored sheet, and one on a white sheet. This book was used by using two pieces of carbon, placing one



(Testimony of Harry Levison.)

between the first and second sheet and one between the second and third sheet. In writing upon the original you obtained your copy on the other two. The carbons were loose carbons.

Mr. WHITE.—I offer this book in evidence and ask that it be marked Complainant's Exhibit "E."

Mr. TOWNSEND.—We make the same objection. (Marked Complainant's Exhibit "E.")

Mr. TOWNSEND.—We make the same objection as offered to this book when offered in evidence as previously stated when offered for identification, as having no bearing on the present issues, unless it is offered as showing the prior state of the art.

Q. 9. (By Mr. WHITE.) I ask you to compare Complainant's Exhibit "E" with Defendant's Exhibit No. 14, and ask you to state what advantages or disadvantages arise in the use of such exhibit "E" as compared with such other exhibits?

Mr. TOWNSEND.—We object to that as incompetent, irrelevant, and immaterial; not rebuttal, not based on any exhibit offered by the defense, and having no bearing on the question here at issue.

A. This book here, exhibit "E," was made ostensibly for the purpose of making it easier to get your three copies, writing at once and obtaining the copies through carbon which was evidently not done before. You saved the re-writing of the sheets, as was necessary in the other book. In comparing this with the book Defendant's Exhibit 14, the difference is that in exhibit 14 the copies are printed on one sheet instead of on three sheets, as it is in ex-

(Testimony of Harry Levison.)

hibit "E," and that the carbons are bound to the book instead of loose carbons as they are in exhibit "E." In using Defendant's Exhibit 14 it is not necessary to handle the carbon, where in using exhibit "E" it is necessary to handle two pieces of loose carbon.

Q. 10. (By Mr. WHITE.) State whether or not in the use of these books it is objectionable to be compelled to handle loose carbons?

A. In using a loose carbon the carbon is very often misplaced, that is, placed between the wrong sheets or in an improper place for use. Sometimes they are not placed in the books straight. Very often the carbon is used more than the carbon is made for; that is to say, where the carbon is probably manufactured to take 40 or 50 copies in the course of business, one may use this for 75 or 100 copies, and thereby obtain indistinct copies. Besides that, it is smutty and dirty in handling.

Q. 11. Are books of the style disclosed here in exhibit "E" on the market—or were they on the market at the time that you first became connected with the printing business? A. They were.

Q. 12. Now, continuing your answer regarding the development of this art I will refer you to a book marked exhibit "F" for purposes of identification, and ask you to make the same comparison between such book and exhibit 14, covered by the patent in suit.

Mr. TOWNSEND.—We make the same objection as previously made.

(Testimony of Harry Levison.)

A. This book is similar to the book of exhibit "E," with the exception that in order to make it easier to handle the two pieces of loose carbon, the corners of the original and duplicate were clipped, the duplicate extending a little further than the original and the triplicate extending to the full corner. In that way it was easier to distinguish the original from the duplicate and the duplicate from the triplicate, thereby placing the carbon in its proper position. This book is also like exhibit "E," used with loose carbons, and necessarily using 2 pieces of loose carbon, which is a disadvantage, and in Defendant's Exhibit 14 the book is used with a carbon attached.

Q. 13. (By Mr. WHITE.) Was this book which has been marked "F" for purposes of identification in use at the time that you became connected with the printing business?

A. Yes, this book was in use at that time, and judging by the fact that this was gotten up for the purpose of making the handling of the carbon easier, I imagine that it came into use after the book marked exhibit "E."

Q. 14. In other words, this last-mentioned book marked "F" has some advantages over the other book marked "E," and for that reason you judge that in the development of the art it came after such book "E," as it was a step forward and not backward; is that correct? A. I do.

Mr. WHITE.—We offer this book in evidence and ask that it be marked Complainant's Exhibit "F."



(Testimony of Harry Levison.)

Mr. TOWNSEND.—We object to the introduction of exhibit “F” in evidence, on the same grounds as stated to the introduction of exhibit “E.”

(Marked Complainant’s Exhibit “F.”)

Q. 15. (By Mr. WHITE.) In continuing your answer, now referring to the book marked “G” for purposes of identification, I ask you to make the same comparison between that book and the previous exhibits and Defendant’s Exhibit 14.

Mr. TOWNSEND.—We make the same objection to the comparison, as was previously made.

A. This book is made by a sheet of yellow paper followed by a sheet of thin, transparent paper and then a sheet of pink paper. The idea of using the transparent paper was to do away with the use of two pieces of carbon, as in the previous books, and by using a piece of two-faced carbon and placing it below, with a thin transparent sheet, a carbon impress was obtained on the pink or duplicate sheet and also on the reverse side of the transparent sheet. The sheet being transparent, permitted it to be seen on the carbon side, *and thereby obtaining the carbon side*, and thereby obtaining the carbon impress with one impression and using but one piece of carbon. It is necessary to use a loose carbon, two-faced, where, in Defendant’s Exhibit 14, the carbon is bound to the book and does away with the handling of the carbon, as is necessary in this exhibit “G” for identification.

Q. 16. (By Mr. WHITE.) In your opinion, did the book you have just referred to, marked “G” for



(Testimony of Harry Levison.)

purposes of identification'' follow the preceding exhibits in the logical development and progress of this art?

A. I should so imagine, inasmuch as in the previous books it was necessary to handle two pieces of loose carbon, and in this book they do away with the handling of one piece of carbon, and handle but one piece of loose carbon.

Q. 17. As I understand it, then, in such a receipt it is objectionable to be compelled to use loose carbon in these books, and handle the same, and this book necessarily therefore is an improvement on the preceding book, because in the use of the same you are only compelled to handle one piece of carbon in place of two pieces of carbon found in these prior books. Is that correct?

Mr. TOWNSEND.—We object to that as leading, and also for the reasons previously given.

A. It is.

Mr. WHITE.—I offer this book in evidence and ask that it be marked Complainant's Exhibit "G."

Mr. TOWNSEND.—We make the same objection to its offer as was made to the offer of the two previous exhibits.

(Marked Complainant's Exhibit "G.")

Q. 18. (By Mr. WHITE.) I will hand you a book and ask you to state whether or not the same was made under your instructions in accordance with the book disclosed in the Barlow patent, Defendant's Exhibit 1. A. It was.

Q. 19. As I understand it then, this book which

(Testimony of Harry Levison.)

I have just handed you correctly represents and embodies the book disclosed in Defendant's Exhibit No. 1, the Barlow patent?           A. It does.

Mr. WHITE.—I offer this book in evidence, and ask that it be marked Complainant's Exhibit "H."

(So marked.)

Q. 20. And I will ask you to examine the book just handed you and marked Complainant's Exhibit "H" and describe it and compare it with Defendant's Exhibit 14, being the book covered by the patent in suit.

A. This book is made with the three receipts printed on one sheet in the manner described by the Barlow patents, and as he describes it and as the book was to be used by loose carbon, by the folding of the sheets with the loose carbon, this book permits you to make 3 copies with the one writing. It had the advantage, or was supposed to have the advantage, over the prior books, inasmuch as they were handling but one sheet of carbon, it was not necessary to have the separate sheets. There were considerable differences in opinion as to the advantages, at that time, but that was what was aimed at. The users of this book, to my knowledge, would use it with two pieces of carbon, two pieces of loose carbon, instead of one piece of carbon, as the Barlow patent called for, because they found it easier to use this book with 2 pieces of loose semi-carbon rather than with one piece of full carbon, as he has described. The advantage in this book in Defendant's Exhibit 14 is a large advantage over this book

(Testimony of Harry Levison.)

Complainant's Exhibit "H," inasmuch as the piece of carbon is bound to the book, and it is unnecessary to look for or to find the place to put the piece of carbon in its proper place. This book, exhibit "H," requires the use of loose carbon, where in Defendant's Exhibit 14, the carbon is always in place for writing, and the carbon is bound to the book.

Q. 21. In the manufacture of the Barlow book is it possible to predetermine the life of the carbon? Or in other words, to predetermine the use to which the loose carbon shall be put?

Mr. TOWNSEND.—We object to that as immaterial.

A. One can predetermine the life of the carbon, but in the using of this Barlow book the user, as a rule, pays very little attention to the life of the carbon, using it until it is about worn out, whereas, in the manufacture of Defendant's Exhibit 14 the life of the carbon is predetermined, and the carbon being bound in its proper place, you will always have a fresh carbon.

Q. 22. (By Mr. WHITE.) As I understand it then, in the use of the book of the type disclosed in Defendant's Exhibit 14, it is not the judgment of the user that determines the life of the carbon, but the judgment of the maker of the book. Is that correct? A. It is.

Q. 23. In connection with Complainant's Exhibit "H" what have you to say in regards to that same proposition?

A. The life of the carbon is not determined by

(Testimony of Harry Levison.)

the manufacturer or maker, but by the user; and he very often uses a carbon longer than the life of the carbon will permit, and by doing so he obtains an indistinct copy. In many cases the fact that there is a carbon in the book, and one being in a hurry to make out receipts is apt to use this carbon or to try to use this carbon throughout the entire book, where the life of the carbon is not made for that purpose. When we first made this book I had in this book two pieces of this semi-carbon. I find but one here now. It has probably been lost by carrying. That was done to show the manner in which the book was being used, instead of the manner in which the use of the book is called for in the patent. There is but one in the book now; there ought to be two.

Q. 24. In continuing your answer to the original question regarding the development and growth and progress of this art, I now refer you to another receipt-book and ask you to describe the same, and make the same comparison between it and the Defendant's Exhibit 14.

A. This book, according to the statement of the paper on the back, was made after the Barlow patent. It shows that the effort was to use the Barlow book with one piece of full carbon and that that was unhandy and awkward, and that it was found to be impracticable; that is, that it was considered so by some people, and in the effort to get the copies, the 3 copies, more readily, they made a book which consisted of one piece of thin, transparent paper extending along the width of it and a second sheet of



(Testimony of Harry Levison.)

yellow paper. A piece of loose carbon was placed below the piece of thin, transparent paper, and the outer half of the yellow sheet was folded over the transparent sheet. By writing upon that outer half you obtained a carbon copy on the inner half of the yellow sheet and also upon the transparent sheet. This book was gotten up with the idea of handling one piece of carbon and being able to place it more readily than in the previous book. But this has the same objection as other books; inasmuch as you are handling a loose piece of carbon, that carbon is very often used longer than it was supposed to be used, where, in Defendant's Exhibit 14, the carbon is attached to the book and the life is predetermined by the manufacturer instead of by the user, as in this book.

Mr. TOWNSEND.—We move that that portion of the answer to the last question referring to the intention or object of the patentee of the book under discussion be stricken out, because it shows that this patent was obtained long before the witness was connected with this business, before he was old enough to know anything about it, and is merely his conclusions as to the objections to the Barlow book; and the purposes and advantages of this are merely the mere guess of the witness.

Q. 25. (By Mr. WHITE.) Your answer, Mr. Levison, as I understand it, is based upon your present knowledge of this art, and not upon your knowledge of the art of the year 1890, when counsel says you were not old enough to appreciate the advan-

(Testimony of Harry Levison.)

tages or disadvantages of these various conditions. Is that correct?

Mr. TOWNSEND.—We object to that as leading and irrelevant.

A. I might say that it is based upon my knowledge of the art now, and also upon common sense.

Mr. WHITE.—We offer this book in evidence and ask that it be marked Complainant's Exhibit "I."

Mr. TOWNSEND.—As showing the state of the art there is no objection to the admission of this book.

(Marked Complainant's Exhibit "I.")

Q. 26. (By Mr. WHITE.) Continuing your answer to the original question, I will ask you now to refer to the book marked for identification "K," and you can make the same comparison with reference to Defendant's Exhibit 14 and these prior exhibits to which you have heretofore referred.

A. This being simply a sheet of yellow paper followed by a thin, transparent sheet and then by another sheet of paper. The first two sheets are made a trifle smaller than the third sheet. This book was used by a single piece of two-faced carbon. The reason for making the third sheet a little larger than the 2 first sheets, the 2 preceding sheets, was in order to be able to find the proper place for placing the loose piece of carbon; whereas in other books, it was apt to be misplaced or placed in the wrong set, or the wrong division. This book was evidently gotten up for the purpose of making it easier to handle the loose carbon, and with the idea of being able to make

(Testimony of Harry Levison.)

your 3 copies quicker than you could with any of the previous books. In Defendant's Exhibit 14 it does away with the handling of a loose carbon, as is necessary in this book. The life of the carbon in this exhibit "K" must be determined by the user, whereas in exhibit No. 14 the life of the carbon is predetermined by the manufacturer.

Q. 27. Can you state about what time this book marked "K" first came into the market?

A. This book came on the market a little prior to the time when I went into the business. I see the book is marked "Patented September 6, 1892," so that it must have come on the market after any of the previous books.

Mr. WHITE.—I offer the book in evidence and ask that it be marked Complainant's Exhibit "K." (So marked.)

Q. 28. What means did you say were embodied in this exhibit "K" for facilitating the handling of the carbon and inserting it in the correct place, between the proper leaves?

A. The first and second sheets were made a trifle smaller than the third sheet, the third sheet extending beyond the first and second sheets, which was easily distinguished and the proper place of placing the carbon was easily found.

Q. 29. The fact that this book does disclose such means indicates, does it not, that in prior books on the market difficulty was experienced in placing the carbon in the requisite place?

Mr. TOWNSEND.—We object to that as leading,

(Testimony of Harry Levison.)

irrelevant and immaterial.

A. So it would indicate. In fact, the thing strived at in all these books was to facilitate the handling of the carbons.

Q. 30. As I understand it, these various books had to be handled, the carbons had to be handled by reason of their not being attached to the book, but being loose. Is that correct? A. It is.

(At the hour of 12 M. recess was had until 2 P. M., when the examination of the witness was resumed as follows:)

Q. 31. In continuing your answer to the original question regarding the progress of this art, I will ask you to refer to a book I now hand you, and request that you state whether or not the same is constructed in accordance with the drawings and specification for the Bengough patent, Defendant's Exhibit No. 7.

Mr. TOWNSEND.—We object to that as leading; no foundation having been laid.

A. It is.

Mr. WHITE.—I offer this book in evidence and ask that it be marked Complainant's Exhibit "L."

(So marked.)

Q. 32. Please compare Complainant's Exhibit "L" with the Peerless book, Defendant's Exhibit No. 14 and the prior exhibit.

A. The thing aimed at in all the previous books was the purpose of getting a triplicate copy with the least amount of handling carbons. This particular book here is made up with 2 pieces of carbon bound



(Testimony of Harry Levison.)

in the center of the book or between a series of sheets that extend one-half the length of a series of sheets following. The long sheets are folded in the center and placed between the two pieces of carbon, and by writing upon the short sheet you obtain a carbon impression on the 2 other sheets. The book is worked from the center. After the impression is made you tear out the 2 sheets in the center of the book and leave the carbon in place for the writing on the other sheets. I have never seen this book on the market, no doubt because it was an awkward book to handle. The handling of the two carbons in the book appear to me to be even more awkward than handling loose carbons. In exhibit 14 there is one carbon attached to the book, where in this book here there are 2 pieces of carbon attached to the book. The fact that the carbon is bound in the center of the book and that you work from the center to the outside of the book makes it obvious that when you reach the outside edge, the sheets, through being such a thickness of stubs between the sheet that you write on and the sheet upon which the impression is to be taken, that the register is not perfect; and furthermore, the thickness of the stubs at the binding space makes a hollow surface upon which to write; therefore the writing would not be as clear; one is apt to punch a hole through the sheets with his pencil. The register is not likely to be perfect. And the fact of binding, confining these two pieces of carbon and separating them in order to place your sheets in proper position is just as awkward

(Testimony of Harry Levison.)

to handle as to place 2 pieces of loose carbon. In Defendant's Exhibit 14 of the Peerless book the carbon is always in the proper place and need not be handled. Another thing about this book is that there is just one set of carbons to bind in the book, and if the book is made of any particular thickness, why, the carbons are apt to be worn out before you reach the end of the book; where, in the book Defendant's Exhibit 14, the Peerless book, by interspersing the carbons you can make the book of any thickness you want. In this book it is impossible to get a good book and make the book as thick as it might be required.

Mr. TOWNSEND.—I move that the answer last given be struck out, as not relative to any question in issue, and also as in great part a mere guess of the witness; also that the claim has nothing whatever to say about a plurality of carbons in the plaintiff's patent, the claims all being based on a single series of a carbon and record sheet, and the comparison is wholly irrelevant and immaterial.

Q. 33. (By Mr. WHITE.) I hand you a book, Mr. Levison, and ask you to state whether or not the same is constructed in accordance with the specification and drawings of the Perry patent, Defendant's Exhibit No. 6.           A. It is.

Mr. WHITE.—I offer this book in evidence, and ask that it be marked Complainant's Exhibit "M."

(So marked.)

Q. 34. Now, continuing your answer, I will ask you to describe the manner in which this book is con-

(Testimony of Harry Levison.)

structed and is used, and compare the same with Defendant's Exhibit No. 14 and the prior books put in evidence.

A. This particular book is also contrived with the idea of making the handling of carbon easier than the previous patents. While this patent—that is, the Perry patent—is not on the book, the patent is on the manner in which the sheets are printed, and it does not provide in the patent that the sheets be bound in any particular way. The patent merely calls for the transverse printing on the middle copy. In order to do this it is necessary to use a transparent sheet of paper or a very thin sheet of paper, which is not a practical sheet of paper to be used in the business world; and you use it by folding the middle section over the inner section and then reversing the fold and folding the outer section over the middle section. By placing one piece of carbon paper which is carbonized on both sides between the middle and inner section, you get your three copies with the one writing. As I said before, this here requires the use of thin paper, which cannot always be used in business. The carbon is loose and cannot be attached to the book owing to the fact that the third copy remains in the book, and it is impossible to bind or attach a piece of carbon to that book. To my knowledge I have never seen this book on the market, and probably for the reason that it can only be used with this thin paper. The defendant's Exhibit 14 can be used with any kind of paper of reasonable thickness, and therefore is adaptable to all



(Testimony of Harry Levison.)

business purposes. Defendant's Exhibit 14 provides for a book with the carbon held in place or attached to the book. This is with the loose carbon, but this merely shows an effort on the part of the inventor to provide some means of doing away with the handling of several sheets of carbon, but it has never been used to my knowledge.

Q. 35. In using a single loose sheet of carbon with this book just referred to, and folding the 3 sections of paper in the manner shown in this book, why is it necessary to have the paper so thin?

A. Because they use but one piece of carbon, and they place that between the second and third fold. The carbon impression is taken on the back of the second fold or middle sheet, and the impression must be seen through the sheet in order to be read properly and read on the right side of the sheet. The papers call merely for the printing, call for the taking of an impression of the printing on the back of the sheet so that it will be seen through on the front.

Q. 36. I hand you another book, Mr. Levison, and ask you to state whether or not such book is constructed in accordance with the Brown patent, Defendant's Exhibit No. 4.

A. This book is made in accordance with the design or the drawing shown in the patent. The Brown patent is on sheets having applied upon the printed back thereof a surface of non-drying, transferable ink, and this particular book is made in that way. The idea of the Brown book was to do away with the handling of the carbon, and for that reason



(Testimony of Harry Levison.)

he printed upon the back of the sheet a non-drying, transferable ink, which carried the impression of the writing upon the front of it, to the second or third sheet, or whichever sheet may be under it. This particular book is made in duplicate; but in making the Brown book they always made them in triplicate. This book was not taken very favorably, inasmuch as the back of the paper, being made of this non-drying ink, was smutty and dirty and filthy to everything that it came in contact with, and not only smutty and dirty, but it smutted and dirtied the book in which it was bound and also smutted and dirtied the papers or anything that might be lying about it, after it had been detached from the book.

Mr. TOWNSEND.—My objections are reserved until the book is offered in evidence.

Mr. WHITE.—We offer this book in evidence and ask that it be marked Complainant's Exhibit "N."

Mr. TOWNSEND.—We object to this exhibit "N," the so-called Brown book, because the testimony of the witness shows that it is not a correct representation of the Brown book shown in Defendant's Exhibit 4; that it is shown by a mere inspection of the book and a comparison of the Brown patent that the stop-card in the patent is omitted, and the defendant's testimony on this Brown book was directed to the stop-card D, and therefore all the evidence on this Brown book, Exhibit "N," is irrelevant and immaterial, and it is not rebuttal testimony; and I move that the exhibit be suppressed as wholly irrelevant and immaterial, and an impo-

(Testimony of Harry Levison.)

sition on the Court.

Mr. WHITE.—Where is the imposition that you insinuate is being practiced upon the Court, Mr. Townsend?

Mr. TOWNSEND.—I did not mean to say that counsel was in anywise responsible.

Mr. WHITE.—Has the witness stated that this book was made in accordance with the Brown patent? He has just stated that it was not.

Mr. TOWNSEND.—It is given as a book representing the Brown patent.

Mr. WHITE.—I know what I am putting it in as. I know my own intention. When the time comes I will state it to the Court.

Mr. TOWNSEND.—Furthermore, the witness' testimony has been directed as to what Brown's claims were, and that is wholly a legal question, and irrelevant and immaterial.

(Marked Complainant's Exhibit "N.")

Q. 37. (By Mr. WHITE.) As I understand you, Mr. Levison, the Brown book as disclosed here in Defendant's Exhibit 4 consists of a series of three leaves, the back, or the respective backs of the first two leaves of the series being carbonized or provided with this non-drying ink, so that anything written on the first sheet of the series is transferred by non-drying ink on the back of such first leaf to the face or upper surface of the second leaf, and then is again transferred to the third sheet of the series by the ink upon the back of the second sheet of the series? Is that correct?

(Testimony of Harry Levison.)

Mr. TOWNSEND.—We object to that as leading, irrelevant and immaterial, and not rebuttal.

A. That is the manner in which the book represented in the drawing of the Brown patents is made up.

Q. 38. (By Mr. WHITE.) The manner of preparing sheets in this Brown patent with this non-drying ink on the backs of the same is illustrated, is it not, in the book marked Complainant's Exhibit "N"? A. It is.

Q. 39. So that this feature of the Brown patent is correctly shown and illustrated in Complainant's Exhibit "N," is it not? And by that feature I have reference to the preparation of the back of the leaf for transferring any impression made on its surface to the sheet below? A. It is.

Q. 40. Did you ever see on the market a book constructed in accordance with the Exhibit "N"?

Mr. TOWNSEND.—We object to that as irrelevant and immaterial, exhibit "N" not representing any patent in the case. There was no claim ever made that it was on the market. I don't care whether it ever was or not.

Mr. WHITE.—We claim that it was in use once and has been practically discarded because it was impracticable, and has been superseded.

A. I have seen this book on the market, and especially so, prior to the fire of 1906, when there were a few on the market; but since that time, when most of the books were destroyed, we find very few of these in use anywhere. In fact, in our efforts to ob-



(Testimony of Harry Levison.)

tain one of these as a sample of the Brown book, in order to place it here as an exhibit, we could only obtain two samples, and that was after a very diligent search. We found but this duplicating book and one other triplicating book, but neither one of these two books are made in exact accordance with the design as shown in the patents, but they both of them show the manner in which the non-drying ink is applied upon the book. The fact that the book has not been used is shown by the fact that we had to make a very thorough and diligent search before we could find these two books.

Mr. TOWNSEND.—I move to strike that answer out for various reasons, and among others that the witness has previously said that this Brown book, exhibit “N,” is not made in accordance with the patent.

Q. 41. (By Mr. WHITE.) As I understand it, pursuant to the request of your counsel, for purposes of this case you endeavored to secure in town a copy of the book constructed in accordance with the Brown patent, Defendant’s Exhibit 4, and that notwithstanding the diligent search on your part, you were unable to find any such book. Is that correct?

A. That is correct.

Q. 42. And as I further understand the matter, as a result of such search you were able to find a book which has been introduced in evidence as Complainant’s Exhibit “N”? Is that correct?

A. That is correct.

Q. 43. You also referred to another Brown book



(Testimony of Harry Levison.)

which you secured by making this effort to find a book constructed in accordance with Defendant's Exhibit 4; and I now hand you a book and ask you if that is the book to which you have referred?

A. This is the book.

Q. 44. Please describe such book and the manner in which it is used.

A. This particular book is made with a series of sheets; first, a sheet of white paper which is followed by a sheet—first a sheet of white paper which is printed on the back with this non-drying, transferable ink, followed by a sheet of paper which is 3 times the size of this first sheet and which is printed on the inner sheet with the form that is to be used. In the middle it is printed with the non-drying, transferable ink on one side and on the other side with merely an advertisement of the Brown book, but it might be blank; and on the outer end is the printing of the form. In order to use this particular book it is necessary to take the two outer sheets of this, the two outer ends of this end sheet and fold them over the third sheet, making the first fold from the right to the left and the second fold from the left to the right, and writing upon the outer sheet. By having the non-drying ink on the back of the middle sheet and the 3d sheet, which always has this non-drying ink on the back of it, an impression is made through the four sheets of paper, and after this is done the outer 2 pieces of the long sheet are detached from the inner sheet. The middle section of the long sheet, which is composed of this non-

(Testimony of Harry Levison.)

drying, transferable ink, is detached from the outer section and thrown away. The third sheet is detached from the book as a receipt. It can readily be seen that in order to use this book, in addition to the objectionable feature of having a smutty, dirty sheet to work upon you must handle 4 pieces of paper, and that after having used it it is necessary to detach one piece of paper that is of no use, but simply there to be thrown away. If this particular book were to be taken and analyzed, and considering this non-drying ink as a carbon, it is really a book bound together with a piece of carbon paper between either sheet that is written upon; while in Defendant's Exhibit 14 it consists of a sheet with one piece of carbon attached to the book which has a place for a certain number of sheets, and then when that certain number of sheets are used the piece of carbon is worn out, and there is another carbon there to take its place; where in this book it requires a piece of carbon between every set, or several pieces of carbon, between every set; there it requires only one piece of carbon for any number of sets.

Mr. WHITE.—We offer this book in evidence and ask that it be marked Complainant's Exhibit "O."

Mr. TOWNSEND.—So far as this purports to be a representation of the Brown patent its admission is objected to.

Mr. WHITE.—The witness has already explained that after the most diligent search in this city he was unable to obtain anywhere a book constructed in ac-

(Testimony of Harry Levison.)

cordance with the Brown patent. Such a book is not on the market.

Mr. TOWNSEND.—The book in question is wholly irrelevant and immaterial as evidence.

Mr. WHITE.—It is very material. You put in the Brown patent as an anticipation of the patent in suit. Now, we find that there is no such book on the market.

Mr. TOWNSEND.—Anticipation is not proven by what is on the market or what is not on the market. The stop-card that was introduced is the same stop-card that defendant used in exhibit “A.”

(The book last offered by counsel for complainant is marked Complainant’s Exhibit “O.”)

The WITNESS.—I was just about to add—I had forgotten about the stop-card. In addition to that there is a stop-card bound to the outer edge of the book, but because every sheet of paper, or almost every sheet of paper is carbonized, and that unless something were placed between the sheets and in proper place, your impression writing on the first sheet may be copied on the several sheets and you may make several more impressions than are required or what are wanted, and thereby destroy or prevent the use of some of the future sheets. This stop-card is provided, and before the writing can be done it is necessary for the user to first find the proper place and then to insert the stop-card, and then to lay the sheet down and begin to write. It can be readily seen, and is most obvious, that to place this stop-card in its proper position just as much



(Testimony of Harry Levison.)

trouble and just as much work would be necessary as would be to place one piece of carbon as has been done in many previous books. In the present book, or Defendant's Exhibit 14, it is not necessary to place any stop-card or to handle anything whatever except the sheet upon which you wish to write. And this is the time saving and the labor saving convenience and the advantage of that particular book over all other books.

Q 45. (By Mr. WHITE.) I hand you a book, Mr. Levison, and ask you to state whether or not the same is constructed in accordance with Figure 2 of the Doughty patent, Defendant's Exhibit No. 2?

A. It is.

Q. 46. I ask you to describe this book and compare it with Defendant's Exhibit No. 14.

A. This book is made in a series of sheets which are printed so as to permit the folding over of the sheet on the arm, the metal arm. A metal arm of some kind is attached to the outer edge of the book, and the carbon is attached to the outside or the end of the arm. In order to use this book it is necessary to take this carbon or this arm upon which lies a piece of carbon and to lay this arm over the two inner side portions of the sheet, fold the outside portion of the sheet over the middle portion, and the middle portion over the inner portion, folding the carbon with it at the same time. After having written upon it it is necessary to unfold the sheet, throw the arm out of the way which holds the carbon, detach your sheets, the two outer sheets from the



(Testimony of Harry Levison.)

inner sheet, lay the inner sheet out of the way, unfold the outer edge of the next succeeding sheet, fold your arm back again into position and place your carbon in its proper position, then refold the sheet as described before. This is a laborious task, entirely impracticable, and to my knowledge I have never seen this book on the market. It is very evident that to use this book would require more trouble and more work than it would to use or insert a dozen pieces of carbon in the entire book. Defendant's Exhibit 14 does away with this mechanical work, does away with this arm and all this extensive and extravagant manner with which to hold the carbon to the book. In handling this book of Doughty you are required to handle the carbon even more than you are required in any of the other books while in Defendant's Exhibit 14 you do not handle the carbon at all. In this particular book it is shown that there has been an effort on the part of the inventor to do away with the handling of the carbon, but it is very evident that he did not succeed.

Mr. WHITE.—We offer the book in evidence and ask that it be marked Complainant's Exhibit "P." (So marked.)

Q. 47. Can you state whether or not you have ever seen such a character of book as Complainant's Exhibit "P" on the market?

A. I have never seen this particular book on the market, or a book of that character on the market.

Q. 48. Did you ever hear of a book of that character being on the market?

(Testimony of Harry Levison.)

Mr. TOWNSEND.—We make the same objection.

A. I have never heard of the book being on the market. I never knew or heard anything of the book at all until I seen these paper patents.

Q. 49. (By Mr. WHITE.) Now, I hand you another book, Mr. Levison, and ask you to state whether or not the same is constructed in accordance with Figure 4 of the Doughty patent, Defendant's Exhibit No. 2? A. It is.

Q. 50. In what particular feature does this book differ from the preceding exhibit, Complainant's Exhibit "P"?

A. In this book it provides for the arm being attached about the middle of the cover, of the back cover, and by attaching a piece of semi-carbon or one-side carbon to the book and allowing that to extend the length of the inner sheet, and attaching another piece of one-side carbon to the arm that must be thrown into position, you fold the outer edge of the sheet over the arm and this one piece of semi-carbon and lay the arm and the piece of semi-carbon and the sheet over the inner piece of semi-carbon and the inner sheet. After this is done then you write upon the middle portion of the sheet. After this is done then you unfold the arm and the sheet, take the sheet off the arm, detach it from the book, and before writing must fold the other sheets in the manner described.

Mr. WHITE.—I offer this book in evidence and ask that it be marked Complainant's Exhibit "Q." (So marked.)

(Testimony of Harry Levison.)

Q. 51. In Complainant's Exhibit "Q," as I understand you, semi-carbons are used instead of the single double-carbons which are used in the case of Complainant's Exhibit "P." Is that correct?

A. That is correct.

Q. 52. Did you ever see any such book on the market as Complainant's Exhibit "Q"?

Mr. TOWNSEND.—We object to that as incompetent and irrelevant. A. I have not.

Q. 53. (By Mr. WHITE.) Did you ever hear of any such book on the market?

A. No, I never heard of any such book on the market.

Q. 54. If this Complainant's Exhibit "Q" had been on the market in San Francisco, would your position with the Levison Printing Co., and your connection with that house, put you in a position to know about the same?

Mr. TOWNSEND.—We make the same objection.

A. Having made a study of manifold books and having always had my eyes open for any improvement in manifold books, if such a book had been anywhere in or about San Francisco I would no doubt have seen it.

Q. 55. (By Mr. WHITE.) I hand you another book, Mr. Levison, and ask you to state whether or not the same is constructed in accordance with the Abraham's patent, Defendant's Exhibit No. 3?

Mr. TOWNSEND.—We object to that as leading.

A. It is.

Mr. WHITE.—We offer this book in evidence and



(Testimony of Harry Levison.)

ask that it be marked Complainant's Exhibit "R."  
(So marked.)

Q. 56. Please describe this book.

A. This book is merely a duplicating book. The manner of taking copies is similar to any other duplicating book and all other duplication books that had been made, or some of the books that had been made up in that style. The Abraham patent is merely on the form. The fact that it has a perforation across the—it has four perforations of the sheet. By writing upon the upper sheet twice it takes the same two impressions on the lower sheets, and as Abraham says, you get four copies, but it is necessary to write twice in order to get four copies. His patent is more in regard to the form of printing than in the manner of binding or attaching or holding the carbon in place. In fact, it is merely on a duplicate book.

Q. 57. What is meant by the words or expression "to bind"? Or the word "bound" in the art of which the various exhibits form a part?

A. Do you mean to use the word "bind" in the art of making these books? I would say that the word "bind" means anything that is attached to, that is held; in other words, if you would take a dictionary you would find that the definition of the word "bind" is to confine or restrain or hold by physical force or influence of any kind; to be restrained from motion or from customary or natural action. Therefore anything that is restrained in any manner or by any influence is bound.



(Testimony of Harry Levison.)

Q. 58. Are there various means used in the art for binding the leaves of a book or loose leaves, together? And if so, state some of those various means?

A. There are, yes. They can be bound either by glue, paste, sewing, stitching, by clamping, by friction, or by pressure. Any of those things would bind.

Q. 59. I hand you a device and ask you what the same is designated and called by those skilled in the art, in this city?

A. This is called a binder or a magazine binder. It is manufactured by James Ready & Brother, binders, and loose-leaf systems of New York.

Q. 60. Is this device designated by that company as a binder?      A. It is.

Mr. WHITE.—We offer this binder in evidence, and ask that it be marked Complainant's Exhibit "S."

Mr. TOWNSEND.—Exhibit "S" is objected to as irrelevant and immaterial and not representing anything in the case.

(Marked Complainant's Exhibit "S.")

Q. 61. (By Mr. WHITE.) I hand you another device, Mr. Levison, and ask you to state what the same is and what it is designated in the art, by those skilled in the art?

A. This is the Torsion binder, and is so designated by the manufacturer. In fact, on the inside cover is a label, placed there by the manufacturer, the Barrett Bindery Co. of Chicago. It says on this

(Testimony of Harry Levison.)

label that the Torsion binder was patented August 14, 1906; made only by the Barrett Bindery Co. of Chicago. It is a binder used for the holding of magazines. Stamped on the outside of the cover it says "Ainslee's." So it would be presumed that this book was made for holding the Ainslee magazines.

Mr. WHITE.—I offer this binder in evidence and ask that it be marked Complainant's Exhibit "T."

Mr. TOWNSEND.—We object to it as irrelevant and immaterial, and not representing anything in issue.

(Marked Complainant's Exhibit "T.")

Mr. WHITE.—By your last objection made, I understand that you do not contend that the carbon in the Kitchen book is not bound in the book?

Mr. TOWNSEND.—I don't understand the point of your question. We are not using any temporary binders, and have made no claim for the use of any such, and have not introduced in evidence any such anticipatory matter. We are not holding our carbon by any such means. We are not binding our carbon in any sense as shown by the testimony of previous witnesses.

Q. 62. (By Mr. WHITE.) I hand you a catalogue of the Barrett Bindery Co. and ask you to state whether or not the same discloses various and sundry means of binding objects together other than by stitching?

A. It does. In the very first page of this book it heads off with large letters, "Binders that Bind." And the first one that is put in there is the Torsion,

(Testimony of Harry Levison.)

the one that is marked Exhibit "T." And as you go through the book you will find that he shows a binder on page 7 which is held by cords, string, through the holes in the sheet; while on page 13 he describes a book or shows a picture of a book and on the top of it it is called a spring back binder. This is evidently according to the description, simply a binder which holds sheets in place by a spring, clamping at the binding place. In other words, the sheets of the books are held in place by friction created by a spring clamp.

Mr. TOWNSEND.—We move that the answer be struck out, as irrelevant and immaterial, and based on hearsay.

Q. 63. (By Mr. WHITE.) Are you basing your answer on hearsay or on what you see in the catalogue which you hold?

A. Just on the catalogue. Not a word has been said to me except what is printed in the book.

Mr. WHITE.—I offer this catalogue in evidence and ask that it be marked Complainant's Exhibit "U." (So marked.)

Mr. TOWNSEND.—I object to it as irrelevant and immaterial.

Q. 64. (By Mr. WHITE.) In referring to this catalogue, you stated you saw a spring binder mentioned therein, and I will hand you a device and ask you to state whether or not the same represents such spring binder advertised in such catalogue?

A. It does. It is so labeled on the outside of the cover. There is a printed label pasted there by the



(Testimony of Harry Levison.)

manufacturer, on which it says "Barrett Spring Book Binder for Magazines and Weeklies, Indispensable to Libraries, Clubs, and Reading Rooms. Has a grip like Death. Made by the Barrett Binding Co. of Chicago."

Mr. WHITE.—I offer that binder in evidence; and ask that it be marked Complainant's Exhibit "V."

Mr. TOWNSEND.—We object to it as incompetent, irrelevant and immaterial.

(Marked Complainant's Exhibit "V.")

Q. 65. (By Mr. WHITE.) As I understand it, Mr. Levison, such binder marked Complainant's Exhibit "V" is advertised and sold under the term "Binder"? Is that correct? A. It is.

Mr. TOWNSEND.—The further objection is made with regard to these various clamp exhibits last introduced, in that they are in a different art than the art of bookbinding or the art of making up books. They pertain simply to devices for holding loose leaves, and things of that sort, or magazines which are already bound.

Q. 66. (By Mr. WHITE.) I will ask you to compare, Mr. Levison, the means or force used in holding and binding the carbon in place in defendant's book, Complainant's Exhibit "A," with the means and force used in this last mentioned binder, Complainant's Exhibit "V"?

A. In Complainant's Exhibit "A" the carbon is forced into the binding space and between the stitches of the book, and the friction created by the



(Testimony of Harry Levison.)

stitches, or the spring created by the force of these stitches, in the binding, holds the carbon in place and virtually binds it in place in exactly the same manner as the spring in the binder of Complainant's Exhibit "V." In this particular exhibit a book or sheet or anything that is placed in the binder is held there by the friction created by the spring or clamp; while in this Complainant's Exhibit "A" the carbon is held in place by the friction created by the thread, binding, stitches or anything that holds the sheets together, causing friction, which holds the carbon in place. And I would consider them bound in the spring binder—I would consider the binding to be caused in the same manner as it is caused in exhibit "A."

Mr. TOWNSEND.—I move that the answer be struck out, as the comparison made is wholly irrelevant and immaterial to any question in issue. It is merely a question as to whether this book exhibit "A," infringes upon complainant's patent. And I don't believe it is contended by the complainant that Exhibit "V" illustrates complainant's patent.

Q. 67. (By Mr. WHITE.) I show you another device, Mr. Levison, and ask you to state what the same is, and what it is designated as by the manufacture of the same?

Mr. TOWNSEND.—We make the same objection; that it is irrelevant and immaterial.

A. This is a binder designated by the manufacturer, as shown by the label pasted on the binder, and on which it says "Wagner's Free Hand Binder,

(Testimony of Harry Levison.)

patented May 22, 1906, August 13, 1907; others pending; can be operated by one hand. To open, depress the handle with the thumb, at the same time pushing in the automatic lock with the forefinger. To close, simply depress handle and it will lock automatically. This binder is made in over 40 different sizes. Marcus, Ward & Co., Brooklyn, New York. Patents protected by the Patent Title & Guarantee Co. of New York." In addition to that it has got a leaf here, printed on all over it, that this is a free-hand binder, "Wagner's Free Hand Binder." In using this binder the sheets are placed below the clamping device, and by simply depressing the handle until it is locked, the spring which is on the rod holds the binding edge of it in position, and the friction created by this spring, the pressure created by this spring, holds whatever is in there, or binds it, binds them together.

Mr. WHITE.—I offer this device in evidence, and ask that it be marked Complainant's Exhibit "W."

Mr. TOWNSEND.—We object to the offer as irrelevant and immaterial, and representing nothing in the case.

(Marked Complainant's Exhibit "W.")

Q. 68. (By Mr. WHITE.) I hand you a catalogue or circular of Payot, Stratford & Kerr of this city, and ask you to state whether or not the same discloses various devices and various means for binding leaves together other than by stitching?

A. It does, as illustrated in there. I see a picture and a description of Wagner's Free Hand Binder,

(Testimony of Harry Levison.)

and it specifies that "This binder holds more sheets by three times than any other made." It also illustrates a binder which holds cards and is called the "Peerless Card and Lever Binder Case," which holds sheets together by pressure. It also mentions a few other binders.

Q. 69. And this device which you have referred to as being described in this circular and these other devices there described are designated in the circular as binders, are they not?      A. They are.

Mr. WHITE.—I offer this circular in evidence, and ask that it be marked Complainant's Exhibit "X."

Mr. TOWNSEND.—We make the same objection to this offer as was made to the other circulars. And the further objection is made to all these so-called temporary binders, offered as exhibits, in that they are not in the art of manifold books, and they are only remotely allied to the art of bookbinding. They have no relevancy whatever, to any issue in the present case.

Q. 70. (By Mr. WHITE.) I hand you another device, Mr. Levison, and ask you to state what the same is, and by what expression the same is designated by the manufacturer of it.

A. This is a binder for cards. There is a paster attached to this which says that this is the "Peerless Patent Scored Cards, made by the John P. Wiggins Co., sole manufacturers, Chicago, U. S. A. These cards are trimmed exact size to fit our lever binder case." This is a binder that is held together by



(Testimony of Harry Levison.)

pressure created by a lever, and is a similar binder to the one described in the circular of Payot, Stratford & Kerr, marked Exhibit "X." So that this is not only called a binder by Wiggins & Company of Chicago, but is also called a binder by Payot, Stratford & Kerr of San Francisco.

Q. 71. That device was patented in 1899, was it not?      A. So it says here on this label.

Mr. WHITE.—I offer that device in evidence, and ask that it be marked Complainant's Exhibit "Y."

Mr. TOWNSEND.—Its admission is objected to as irrelevant and immaterial, and also on the ground that it is not in the art of bookbinding; not in the art of manifolding books, especially. As far as illustrating the claim is concerned, it shows no more than the Doughty patent shows.

Mr. WHITE.—Do I understand, Mr. Townsend, that you admit that the Doughty patent discloses a clamp for binding leaves in any book ?

Mr. TOWNSEND.—The Doughty patent shows that the leaves are held, that they are bound as stated by the patentee at the bottom of Claim 1, and that the specifications "a" are covered by the clamp A'. Your little Exhibit "Y" apparently shows the same thing, except that your leaves are not bound together, but are loosely inserted into the clamp.

Q. 72. (By Mr. WHITE.) I hand you a catalogue of J. S. McDonald Co. of Chicago, Illinois, and ask you to state whether or not this refers to various devices in there, as binders, which are adapted to hold sheets together by other means than stitching?



(Testimony of Harry Levison.)

Mr. TOWNSEND.—We make the same objection; irrelevant and immaterial; no foundation laid, nor the catalogue accounted for.

A. It does, in a number of cases. On the very cover it says “Gravity Lock Binder.” It shows that it binds in other ways than by stitching. And throughout the book it speaks of different styles of binders.

Mr. WHITE.—I offer this catalogue in evidence, and ask that it be marked Complainant’s Exhibit “Z.” (So marked.)

Q. 73. (By Mr. WHITE.) I hand you another device, Mr. Levison, and ask you to state by what term the same is designated by the manufacturer thereof.

A. This is designated by a stamp on the inside of the cover as “The Simplex Binder, Makers, James R. Ready & Bros., Binders, Files, Loose Leaf Systems, 18 Cedar Street, New York.”

Mr. WHITE.—I offer this binder in evidence and ask that it be marked Complainant’s Exhibit “AA.”

Mr. TOWNSEND.—We object to it as irrelevant and immaterial and not belonging to the art of manifolding books or bookbinding proper.

(Marked Complainant’s Exhibit “AA.”)

Q. 74. (By Mr. WHITE.) I show you a catalogue of the Chicago Shipping & Receipt Book Co., Mr. Levison, and ask you to state whether or not the same discloses various and sundry devices adapted for binding leaves together.

A. It does, several of them; many of them.

(Testimony of Harry Levison.)

Q. 75. Are such devices designated in such catalogue by the expression "Binder?" or "Binders?"

A. Some of them are called Lock Binders, some of them are called Post Binders, and some of them are called Transfer Binders.

Mr. WHITE.—I offer this catalogue in evidence and ask that it be marked Complainant's Exhibit "BB."

Mr. TOWNSEND.—Its introduction is objected to as irrelevant and immaterial, secondary evidence, no foundation laid.

(Marked Complainant's Exhibit "BB.")

Q. 76. (By Mr. WHITE.) Do you know where these various catalogues were secured, Mr. Levison, that have been put in evidence?

A. They were secured through circular letters sent out by the various manufacturers by these houses, without any great effort on our part to get these circulars. We got these circulars and catalogues from time to time from these different houses.

Q. 77. As one familiar with the art and skilled in the art involved in this suit, what have you to say regarding the meaning of the word "bound"? Or the words "to bind" in the year 1902, when the patent in suit was granted?

A. Well, I consider the words "to bind" to mean just exactly what Webster's unabridged dictionary would put it. In the art we consider it to mean nothing else but what the dictionary calls for. Anything that is held together in any manner is bound, whether it be held by friction, clamped, by stitches, glue,

(Testimony of Harry Levison.)

paste, or anything whatever. As long as it is restrained from moving about or from natural movement, it is bound. In fact, the word "bind" means to attach, to hold, to confine, to restrain, and so on.

Q. 78. In the ordinary and everyday use of a book constructed like Complainant's Exhibit "A" would the carbon be held or bound in place so that it would not become misplaced or fall out of the book?

Mr. TOWNSEND.—We object to that as leading.

A. No, sir; it cannot fall out of the book. We consider it bound to the book, held to the book. In fact, if I had to make that book in our shop I would have to go, in order to get that book made, to the bookbinder and he would bind the book, and in binding the book he would have to attach and keep the carbon in the binding space, as shown in that particular book.

Q. 79. (By Mr. WHITE.) Can you state what the purpose is of attaching the carbon in this book, Complainant's Exhibit "A," to a piece of cardboard, and cutting out places in such cardboard, as shown here?

A. As near as I can see, it is that unless this piece of cardboard be cut in that manner it would be stitched to the back, and that the reason for doing that is that this here should slip alongside of the stitching, and instead of this being bound in the book when the book was made, it would be bound to the book after it had been made.

Q. 80. Do you know what requirements there are in the city and county of San Francisco in regards to

(Testimony of Harry Levison.)

triplicating receipt-books purchased by the city, or contemplated being purchased by the city, for the coming fiscal year?

Mr. TOWNSEND.—We object to that as irrelevant and immaterial, and not rebuttal.

A. It calls for books consisting, as described here, of pads with suitable backs, having covers with suitable stop-card and four pieces of double-carbon paper bound in or to the pad, the carbon paper arranged to allow the folding over of the sheet, and taking two copies at one writing, etc.

Q. 81. (By Mr. WHITE.) In answering my question to what document did you refer?

A. I referred to the schedule of estimated yearly supplies of books required by the various departments and offices and officers of the city and county of San Francisco during the fiscal year commencing July 1, 1909, and ending June 30, 1910.

Q. 82. As I understand it, then, the city and county of San Francisco can only accept bids for books having carbons attached to the same. Is that correct?

A. According to the schedule here such is the request.

Q. 83. By whose authority is this document or schedule which you have just referred to issued?

A. As I understand it, this is issued by the Printing Committee of the Board of Supervisors, the prices to be placed in these spaces here, and addressed to the Honorable Board of Supervisors of the City and County of San Francisco.



(Testimony of Harry Levison.)

Mr. WHITE.—Take the witness.

Cross-examination.

(By Mr. TOWNSEND.)

XQ. 1. You are connected with the Levison Company, are you not, the defendant?

A. Yes.

XQ. 2. You are interested in this company?

A. I am a stockholder.

XQ. 3. You are therefore interested in this suit, then, in the outcome of this suit? A. Yes.

XQ. 4. You read a few moments ago from the specifications for fee-books, quoting that the carbon paper is to be bound in or attached to the pad. Are all books which have carbons attached to the pad considered bound books, in your opinion?

A. They are.

XQ. 5. You also stated, I believe, that as long as a carbon cannot fall out of the book it is bound in the book, from your statement that you made awhile ago?

A. Anything that cannot be moved about is bound.

XQ. 6. You stated that as long as the carbon could not fall out of the book it was bound in the book? A. Bound in the book.

XQ. 7. You recognize exhibit "P," the Doughty model, as a manifold book, do you not?

A. I do.

XQ. 8. And as a triplicating book, do you not?

A. I do.

XQ. 9. Cannot the carbon fall out of that book?

(Testimony of Harry Levison.)

A. Not if you consider that arm to be a portion of the book, it could not fall out of the book.

XQ. 10. How do you consider that arm?

A. I would say that the arm was attached to the cover of the book. In other words, I would say that the arm was bound to the cover of the book, and that the carbon was bound to the arm, or attached to the arm, or held to the arm.

XQ. 11. Then you would consider that a bound carbon?

A. I would say that that carbon was bound to the arm, held.

XQ. 12. This exhibit "P," Mr. Levison, contains a double-faced carbon, does it not?

A. It does.

XQ. 13. This exhibit "P" of the Doughty patent contains a plurality of carbons, does it not—exhibit "P," the Doughty book? A. It does.

XQ. 14. It has a cardboard back, has it not, to which the arms are attached? A. It has.

XQ. 15. And the record sheets in the Doughty book outside the stubs are divided into three substantially equal separable parts, are they not?

A. They are.

XQ. 16. And the carbon sheet of the Doughty extends the width of 2 of said parts, does it not?

A. After it is laid over the sheet it extends the width of 2 of them, not before.

XQ. 17. The recording sheets having stubs to which they are attached along lines of perforations?

A. I would say that the recording sheet is not at-

(Testimony of Harry Levison.)

tached to a stub along lines of perforation, but that the recording sheet can be separated into 3 parts along lines of perforation.

XQ. 18. I call your attention to the Doughty patent. You stated that this exhibit "P" was an exact representation of the Doughty patent, Figure 2? A. It is.

XQ. 19. And in this Doughty patent it has the clamp that you have shown in exhibit "P" and it shows means of perforations, c, just outside the clamp?

A. I will say that in the figure 1 it does not show a perforation just outside the clamp, but in figure 2 it does. The reason for that is, that as described in his patent here, it says that "The triplicate, which latter can be retained in the book or removed as desired." Now, to retain it in the book the perforation is not there, but if it were removed the perforation would be there.

XQ. 20. You say that in figure 2 the perforations are shown outside the clamp.

A. In figure 2, but not in figure 1.

XQ. 21. I understood you to testify on your direct examination that exhibit "P" was and is a representation of figure 2.

A. I may have said that, but I think I said it was a representation of Figure 1.

XQ. 22. The testimony will speak for itself.

A. I may have said it was an exact representation of figure 2, inasmuch as I may have overlooked that small perforation marked c.

(Testimony of Harry Levison.)

XQ. 23. If this refers to Figure 2 then your perforations in the stub were there?

A. The only change that would be necessary in order to make that represent Figure 2 instead of Figure 1 would be a perforation just outside the spring binding portion.

XQ. 24. No mention has been made of the spring, so that is immaterial, or the clamp, either. But if this is a correct representation of Figure 2, then these record sheets show stubs to which they are attached along lines of perforations. Is that not true?

A. Figure 2? Yes.

XQ. 25. And these stubs are bound to the back, according to your definition?

A. They are, yes.

XQ. 26. And the carbon sheet is also bound to the back? A. It is bound to the cover.

XQ. 27. The backing, as shown there?

A. Binding to the back, I would say, I mean not the binding to the back; I mean the cover.

XQ. 28. And they are all bound together with stubs and carbons to form a book?

A. Yes, it all forms a book; yes. I will say for your benefit that the patentee of that book is trying to get at the proposition of binding a carbon to a book, so that it could be easily handled, but that he has got a very awkward manner of binding the carbon to the book, and a very awkward manner of handling the carbon.

XQ. 29. I will take this in another way. We have here the carbon sheets extending the width of



(Testimony of Harry Levison.)

the parts of the record sheets, except the outermost, have we not?

A. When you lay your carbon down, when you place your carbon in position, it extends the width of two, except the outermost.

XQ. 30. And we also have in this Doughty Exhibit "P" a plurality of recording sheets, each recording sheet outside of the stub being divided into a plurality of not less than three of separable parts joined along lines of perforations? You have stated that; each part being not greater than the part next it on the side toward the stub; is that not true?

A. Yes.

Redirect Examination.

(By Mr. WHITE.)

RDQ. 1. In Defendant's Exhibit 14, being the book covered by the patent in suit, state whether or not one edge of the carbon is bound with the stubs of the various sheets in the book. A. It is.

RDQ. 2. State whether or not in this book, Complainant's Exhibit 1, the carbon or one edge of the carbon is bound together with the stubs of the various sheets of the book. A. It is not.

Mr. WHITE.—That is all.

(Testimony closed.)

**[Examiner's Certificate to Depositions.]**

United States of America,  
State and Northern District of California.  
City and County of San Francisco,—ss.

I hereby certify, that the foregoing depositions were taken in pursuance of the notices hereunto annexed, at the place stated in the captions of said depositions, and upon the days set forth in said depositions, in my presence and in the presence of counsel for the respective parties to the cause in said caption entitled. That previous to giving their testimony the said witnesses were by me duly sworn to tell the truth, the whole truth and nothing but the truth in said cause. That said depositions were taken down in shorthand writing and transcribed by Brainard C. Brown, in pursuance of stipulation of counsel; that the reading and signing of said depositions were, by stipulation of the respective counsel, waived; and that I have retained said depositions for the purpose of delivering the same with my own hand to the Court for which they were taken.

Accompanying said depositions and forming part thereof are the several exhibits introduced in evidence therewith and referred to and specified therein.

I further certify, that I am not attorney nor of counsel for any of the parties to said cause, nor in any way interested in the event thereof.

In witness whereof, I have hereunto set my hand  
this 29th day of June, 1909.

E. H. HEACOCK,  
Examiner in Chancery, U. S. Circuit Court, Ninth  
Judicial Circuit, Northern District of Cali-  
fornia.

[Endorsed]: Published and Filed Sept. 8th, 1909.  
Southard Hoffman, Clerk. By J. A. Schaertzer,  
Deputy Clerk.

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At a stated term, to wit, the July term, A. D. 1910,  
of the Circuit Court of the United States of  
America, of the Ninth Judicial Circuit, in and  
for the Northern District of California, held at  
the courtroom in the City and County of San  
Francisco, on Monday, the 1st day of August,  
in the year of our Lord, one thousand nine hun-  
dred and ten. Present: The Honorable WILL-  
IAM C. VAN FLEET, District Judge.

No. 14,772.

ALEXANDER LEVISON

vs.

J. KITCHEN JR. COMPANY.

**Order for Entry of Interlocutory Decree.**

This cause heretofore submitted to the Court being  
now fully considered and the Court having rendered  
its oral opinion thereon, it was ordered, in accord-  
ance therewith, that an interlocutory decree in favor  
of complainant, be signed, filed and entered, with  
reference to the Master for an accounting.

*In the Circuit Court of the United States, Ninth  
Judicial Circuit, Northern District of Cali-  
fornia.*

Hon. W. C. VAN FLEET, Judge.

No. 14,772.

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. COMPANY,

Defendant.

**Oral Opinion.**

Monday, August 1st, 1910.

Appearances:

JOHN H. MILLER, WILLIAM K. WHITE,  
for Complainant.

CHARLES TOWNSEND, for Defendant.

THE COURT (Orally). In the case of Alexander Levison vs. J. Kitchen Jr. Company, I requested counsel in the case to be here this morning that I might announce my conclusions. I have given the case very careful consideration and reviewed the evidence thoroughly, and I have reached the conclusion that the decree must go in favor of the complainant and a reference had to the Master to ascertain the damages.

The bill is one for the infringement of letters patent for what is called a manifold book,—used by express and commercial houses where it is necessary to have more than one copy of a receipt. The defenses



are want of invention, growing out of anticipation; the validity of the patent as a reissue; and further that there is no infringement.

As to the defense of want of invention by reason of anticipation, it appears that prior history of the art is made up of a large number of devices theretofore patented wherein it is disclosed that it has been the aim, object and desire of those interested for a great many years, a quarter of a century perhaps, to attain some simple device by which in manifold books of this character the use of carbon paper may be had under conditions which would avoid the necessity of handling it and having it in loose sheets, as it had existed for a great many years, because of its unpleasant nature and the inconvenience. The patent of the complainant covers such a device. It is one which covers a manifold book where the carbon paper is attached by binding in with the sheets of the book to the book itself; a certain number of recording sheets, such as would by estimation and experience exhaust the life of one sheet of carbon are put in the book, and the sheet of carbon bound in; then a like number of recording sheets are put in with another sheet of carbon, and in that way a book of any number of desired recording sheets is made. It appears from an examination of the prior art that this is not the first time that a device has been invented whereby the carbon paper is bound in the book, but it does disclose very clearly to my mind, and without any conflict of a substantial character in the evidence, that this is the first instance in which a practicable device of this character has been in-

vented; and of course it is well established that a device that is of a practical and successful character cannot be anticipated by one that is not, although it may include all of the elements that may appear in the successful device. It is very strenuously urged, however, that it does appear that the change by which the success in this device is brought about is a perfectly simple and obvious one, growing out of the art as it theretofore existed. I am entirely unable to coincide with this view. The simplicity of the change is not the test of its patentability; its simplicity is not the test of its obviousness. It is well established that, in order to determine whether a thing is so obvious that by an inspection of the prior art the skilled artisan could have evolved the device which is the subject of the patent without the intervention of the inventive faculty, other things than its mere simplicity must be regarded. Simplicity, it is aptly said, is of high value in mechanics, and especially in the inventive art, and in itself is no objection to patentability. Arguments of that sort have ever been used against the employment of the inventive faculty. The determinative factor is, what has been accomplished as shown by the result of the patented device in the way of a successful attainment of the purpose that is shown to have been sought. It is a very usual defense in instances of improvement patents or secondary patents as they are termed, where the art has any previous history, to base a defense upon the claim of simplicity and obvious anticipation through the existing art; but it is not a defense that is favored; it is one that the courts regard rather

jealously, and they will examine carefully the results obtained to see if in fact the apparent simplicity and obviousness, which very frequently strikes one when a thing has been accomplished, is not due to the employment of the inventive faculty; and that, as I say, is to be determined largely from the successful operation of the device and what it accomplishes.

The history of this art shows that, although there had been at least two previous devices patented wherein the carbon was bound into the book, neither one of those was a practicable device. That is particularly true of the Doughty patent, where there was a device by which the carbon was bound in the middle of the book and by a cumbersome and complicated arrangement the carbon could be used by folding over the sheets first on one side and then on the other; but that was proven and shown very clearly to my mind to be entirely impracticable and was not a success and has practically gone out of existence. The other device, the Bengough patent, is not to my mind in any sense an anticipation of the present one. It was a very cumbersome arrangement whereby the carbon was attached to the book by a wire frame, was not bound into the book in any proper sense at all; it was merely attached to it, and when the book was opened to be prepared for use, by throwing this framework over it would put this carbon in a position where the recording sheets could be folded upon it, and thereby a manifold register made. An inspection of these two devices, that is the Doughty device and the Bengough device, tends to satisfy me as much perhaps as any other thing



in the case that the idea of the complainant in creating his device was not obvious; that it was merely one of those happy thoughts which came to him by some sort of inspiration and brought about success out of what had been previously comparative failure; and this, as heretofore indicated, is always potent evidence of invention. I am therefore fully satisfied in my own mind that so far as the defense of anticipation is concerned, it is wholly unsustained by the record.

As to the defense of invalidity through reissue, I do not think that there is anything of substance in that defense. The statute very clearly provides for instances in which a reissue may be had, growing out of accident or inadvertence or omission to fully state in the claims of the original patent the invention that the patent really covers. You cannot expand your invention but you can expand and correct your claims so as to avail yourself of the invention that is covered by the patent; and that is all that was done in this instance. The reissue was had within 15 or 16 days after the original patent. That is, the application for reissue was had within a very few days, and I think that the record shows that the reissue was had within a short time after the original patent was issued; so that I am satisfied that the application for a reissue was strictly within the limitation of the statute, which would show good faith, and that the application itself discloses that it was one of those instances which was clearly within the provisions of the statute authorizing a reissue under the circumstances. I am therefore satisfied, as sug-



gested, that there is nothing in that defense.

The only remaining defense is, as indicated, that there really is no infringement by the device of the defendant, and that is based largely upon the theory that by reason of the prior art the claims of the complainant's patent are so restricted in their construction that they must be confined to a device proceeding precisely upon the lines of that described in the patent; in other words, that the patent is not entitled to the doctrine of equivalents. The argument largely proceeds along the line that the patent is to be so narrowed in its construction by the prior art that it is not entitled to the doctrine of equivalents, and that inasmuch as the defendant's device is to be differentiated from that of the complainant, it cannot operate as an infringement. The doctrine, or rather what was supposed to be the doctrine for some years under the decisions of the Supreme Court, that pioneer or primary inventions only are entitled to invoke, in their protection, the doctrine of equivalents, has been entirely exploded, and that Court has decided definitely and finally in the Paper Bag Patent case, so called, 210 U. S. 405, that that Court never did announce any such doctrine, under its decisions when properly interpreted. The rule is, as declared in the Paper Bag case, that a secondary or improvement patent, equally with a primary patent is to have a fair and reasonable construction, and is entitled to the protection of the doctrine of equivalents to the extent that it shows a substantial improvement in the art; it is not, of course, entitled to the broad application of the doctrine equally with

a pioneer or primary patent, but it is entitled to the application of that doctrine to the extent that its claims, fairly and justly construed, will so entitle it. Now, applying that doctrine, it seems to me, under the evidence in this case, and in view of the high and successful character of the device of the defendant, and where the infringement is by a device so palpably the equivalent of that called for in the complainant's patent, that there can be no question that it should be entitled to the protection of that principle. The defendant's device is this: the book is practically of the same character in its general make-up as that of the complainant, and of course as to this there is no claim of novelty. The carbon is not bound in with the binding of the book; it is attached to a piece of rigid cardboard, so cut as to leave certain points on the external edge; the book itself is bound by staples and in such manner that the leaves may be separated at any point, and the carbon, through the use of this rigid piece of cardboard, may have those points firmly inserted so that they will enter on each side of these staples and thereby the carbon is securely held in place; so that, as was illustrated at the argument, you can pick the book up and handle it in any way and the carbon still remains firmly in place. I am entirely satisfied in my mind that this is the equivalent of binding it in the book at the printer's or at the bindery. It would not seem to make any difference how the carbon is secured so long as it is firmly attached. The novelty of the device of the complainant is in its having solved the idea of having a fixed carbon so

arranged that it makes a practicable and successfully operating book, and the patent does not pretend to confine it to the one form. Of course the claim uses the term "bound in," but the patentee does not undertake to confine himself to the manner in which it shall be bound; it simply provides for the binding of the carbon in the book. Supposing that defendant had had his carbons arranged with this patent paste or mucilage attachment such as we often see, where you can dampen or wet it with a sponge and attach it to anything; you could take any book in the world that I have ever seen and if that carbon was so arranged you could lift those leaves and stick or paste it at the inner edge and it would be as perfectly bound in that book as any leaf of the book. The fact is you often see such insertions of illustrations in books; they are not bound or sewed in with the leaves of the book, but they are inserted through the book in their proper places by the use of paste or mucilage or other adhesive material, and they are bound in the book just as effectually as though they were sewed in; and so here it seems to me that it is the purest evasion and attempt to get around the device of the complainant by adopting a means of securing precisely the same end by what to my mind must be held as in all material respects an equivalent method; and that cannot be allowed. As intimated, I have no doubt from the evidence in the case that the invention of the plaintiff's device was of such material character that entitles it to a substantial application of the doctrine of equivalents; and under that doctrine the defendant's device is clearly an in-



vasion of his rights and an infringement.

These, expressed in a very crude and general way, are the reasons that have affected me in reaching the conclusion that the decree in the case must go for the complainant, and that a reference be had to the Master to determine the damages.

[Endorsed]: Filed August 1st, 1910. Southard Hoffman, Clerk. By J. A. Schaertzer, Deputy Clerk.

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*In the Circuit Court of the United States for the Northern District of California, Ninth Circuit.*

No. 14,772.

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. CO.,

Defendant.

At a stated term, to wit, the July Term, of the above-entitled court, held at the courtroom thereof in the City and County of San Francisco, State of California, on the eighth day of August, A. D. 1910,—Present, Honorable WILLIAM C. VAN FLEET, District Judge, presiding:

**Interlocutory Decree.**

This cause having heretofore come on regularly to be heard upon the pleadings and proofs documentary and oral taken and submitted in the case, and being of record therein, the complainant being represented by Messrs. Miller & White, and the de-



fendant by Charles E. Townsend, Esq., and the cause having been duly argued and submitted to the Court for its consideration and decision, and the Court being now fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED as follows:

That the defendant was and is a corporation organized and existing as alleged in the bill of complaint herein.

That the letters patent sued on herein, to wit, United States Reissued Letters Patent No. 12,005, issued on July 1, 1902, to Alexander Levison, complainant herein, for Improvements in Manifold Books, are, so far as Claims 3, 4 and 5 thereof are concerned (said Claims 3, 4 and 5 being the only claims thereof charged to have been infringed by the defendant, and, therefore, the only claims considered by the Court), in all respects good and valid in law; that said Alexander Levison was the original and first inventor of the inventions described and claimed in said reissued letters patent; that ever since the issuance of said reissued letters patent to him, as aforesaid, complainant has been and still is the sole and exclusive owner of the same, together with all claims, demands and causes of action for the past infringement thereof; that since the issuance of said reissued letters patent and within six years prior to the commencement of this suit, the defendant herein, without the license or consent of complainant, within the Northern District of California, has infringed upon said Claims 3, 4 and 5 of said reissued letters patent No. 12,005 by making, using and selling manifold books containing and embodying the

inventions respectively claimed and patented in and by said Claims 3, 4 and 5 and each of them.

And it is further ORDERED, ADJUDGED AND DECREED that the defendant J. Kitchen Jr. Co., its officers, agents, servants, attorneys, workmen and employees, be and they are hereby perpetually enjoined and restrained from further making, using or selling any manifold books containing or embodying the inventions respectively claimed and patented in and by said Claims 3, 4 and 5 of said reissued letters patent, or any of them, and from further infringing upon said Claims 3, 4 and 5 of said reissued letters patent, and each of them.

And it is further ORDERED, ADJUDGED AND DECREED that the complainant recover of the defendant the damages which complainant has suffered, together with the gains, profits and advantages which the defendant has realized from and by reason of its infringement aforesaid.

For the purpose of stating the account of the gains, profits and advantages by the said defendant received, or which have arisen or accrued to defendant from infringing the said exclusive rights of complainant, by the manufacture, use and sale of said patented inventions, and for ascertaining the damages suffered by the complainant thereby, it is ORDERED, ADJUDGED AND DECREED that this cause be and is hereby referred to H. M. Wright, Esq., Master in Chancery of this court, to ascertain, take, state and report to the Court an account of the said gains, profits and advantages by the said defendant had, received, arisen or accrued, and all damages

by the said complainant sustained by reason of the said infringement, and that the complainant on such accounting have the right to cause an examination of the officers of the said defendant *ore tenus*, or otherwise, and also the production of its books, vouchers and documents, and that the said officers of the defendant attend for such purpose before the Master from time to time as such Master shall direct.

And it is further ORDERED, ADJUDGED AND DECREED that the complainant do have and recover of the defendant its costs and disbursements in this suit taxed by the clerk at the sum of ——— dollars.

Dated August 8th, 1910.

WM. C. VAN FLEET,  
Judge.

[Endorsed]: Filed and entered August 8th, 1910.  
Southard Hoffman, Clerk.

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*In the United States Circuit Court for the Ninth Circuit,  
Northern District of California.*

IN EQUITY—No. 14,772.

ALEXANDER LEVISON,  
Complainant,

vs.

J. KITCHEN JR. CO.,  
Respondent.

**Petition for Order Allowing Appeal.**

J. Kitchen Jr. Co., respondent in the above-entitled cause, conceiving itself aggrieved by the final order and decree filed and entered on the 8th day of Au-



gust, 1910, in pursuance of the decretal order of August 1, 1910, in the above-entitled cause, whereby infringement and accounting in favor of complainant and against defendant was ordered, adjudged and decreed, as prayed for in the Bill of Complaint in said cause in the case, Charles E. Townsend, Esq., solicitor and counsel for respondent, petitions said Court for an order allowing respondent, J. Kitchen Jr. Co., to prosecute an appeal from said final order and decree, and the Honorable, the United States Circuit Court of Appeals for the Ninth Circuit under and according to the laws of the United States in that behalf made and provided; and also that an order be made fixing the amount of security which defendant, J. Kitchen Jr. Co., shall give and furnish upon such appeal, and that upon giving such security all further proceedings in this court be suspended and stayed until the determination of said appeal by said United States Circuit Court of Appeals for the Ninth Circuit, and your petitioner will ever pray.

CHAS. E. TOWNSEND,

Solicitor for Respondent.

[Endorsed]: Filed Aug. 12, 1910. Southard Hoffman, Clerk. By J. A. Schaertzer, Deputy Clerk.



*In the United States Circuit Court of Appeals in the  
Ninth Circuit in the Northern District of Cali-  
fornia.*

J. KITCHEN JR. CO.,

Appellant,

vs.

ALEXANDER LEVISON,

Appellee.

**Assignment of Errors.**

Now comes J. Kitchen Jr. Co., respondent in the cause in the court below, entitled "Alexander Levison, Complainant, vs. J. Kitchen Jr. Co., Respondent," No. 14,772, in the Circuit Court of the United States for the Northern District of California, and appellant herein, by Charles E. Townsend, Esq., its solicitor and counsel, and says that in the record and proceedings in the said cause in the said court below there is manifest error, and it particularly specifies the following as the errors upon which it will rely and which it will urge upon its appeal in the above-entitled cause:

1. That the Circuit Court of the United States for the Northern District of California erred in holding that the claims of complainant's patent, and especially Claims 3, 4 and 5 sued on, were, or any of them, valid.

2. That the Circuit Court of the United States for the Northern District of California erred in holding that the claims of complainant's patent, and

especially the claims sued on, were not each and all anticipated by the prior art.

3. That the Circuit Court of the United States for the Northern District of California erred in holding that complainant's patent, with especial reference to the claims sued on, presented patentable novelty in view of the Barlow, or Doughty, or Abrahams patents.

4. That the Circuit Court of the United States for the Northern District of California erred in holding that the claims of complainant's patent sued on, or either of them, represented a patentable invention.

5. That the Circuit Court of the United States for the Northern District of California erred in holding that complainant's patent was not void as a reissue.

6. That the Circuit Court of the United States for the Northern District of California erred in holding that complainant's patent, and especially the claims sued on, and each of them, or any of them, were entitled to a liberal construction and application of the doctrine of mechanical equivalents.

7. That the Circuit Court of the United States for the Northern District of California erred in holding, in view of the prior art, that the defendant's device did not represent a distinct, different and independent invention from complainant's.

8. That the Circuit Court of the United States for the Northern District of California erred in holding that the loose carbon of appellant was the equivalent of the bound carbon of complainant appellee.

9. That the Circuit Court of the United States for the Northern District of California erred in holding that complainant's patent was infringed.

10. That the Circuit Court of the United States for the Northern District of California erred in enjoining the respondent.

11. That the Circuit Court of the United States for the Northern District of California erred in sustaining the bill of complaint.

In order that the foregoing assignments of errors may be and appear of record, the appellant presents the same to the Court, and prays that such disposition be made thereof as in accordance with the law and the statutes of the United States in such cases made and provided.

All of which is respectfully submitted.

CHAS. E. TOWNSEND,  
Solicitor for Appellant.

[Endorsed]: Filed Aug. 12, 1910. Southard Hoffman, Clerk. By J. A. Schaertzer, Deputy Clerk.

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*In the United States Circuit Court for the Ninth  
Circuit, Northern District of California.*

IN EQUITY—No. 14,772.

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. CO.,

Respondent.

**Order Allowing Appeal.**

On motion of Charles E. Townsend, Esq., solicitor and counsel for J. Kitchen Jr. Co., respondent, in the above-entitled cause, it is ordered that the appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the final order and decree filed and entered herein to wit, on the 8th day of August, 1910, be and the same hereby is allowed; that the transcript of the record, testimony, exhibits, and all proceedings herein be forthwith transmitted to the United States Circuit Court of Appeals for the Ninth Circuit upon said respondent, J. Kitchen Jr. Co., giving a bond in the sum of Five Hundred (\$500.00) Dollars and all further proceedings in this Court be suspended and stayed until the determination of said appeal by the said United States Circuit Court of Appeals for the Ninth Circuit.

WM. C. VAN FLEET,

Judge.

[Endorsed]: Filed Aug. 12, 1910. Southard Hoffman, Clerk. By J. A. Schaertzer, Deputy Clerk.

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*In the United States Circuit Court for the Ninth  
Circuit, Northern District of California.*

IN EQUITY—No. 14,772.

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. CO.,

Respondent.



**Order Allowing Withdrawal of Original Exhibits.**

On motion of Charles E. Townsend, Esq., solicitor and counsel for J. Kitchen Jr. Co., respondent, and good cause appearing therefor, it is by the Court now ordered:

That all of the exhibits in the above-entitled case, both complainant's exhibits and respondent's exhibits, including models, drawings, copies of patents, etc., and which are impracticable to have copied or duplicated, be and hereby are allowed to be withdrawn from the files of the Court in this case and transmitted by the Clerk of this Court to the United States Circuit Court of Appeals for the Ninth Circuit as a part of the record upon appeal for the respondent herein to said Circuit Court of Appeals; said original exhibits to be returned to the files of this Court upon the determination of said appeal by said Circuit Court of Appeals.

WM. C. VAN FLEET,

Judge.

[Endorsed]: Filed Aug. 12, 1910. Southard Hoffman, Clerk. By J. A. Schaertzer, Deputy Clerk.

AMERICAN BONDING COMPANY OF BALTI-  
MORE,

HOME OFFICE: BALTIMORE, MD.

*In the United States Circuit Court for the Ninth  
Circuit, Northern District of California.*

IN EQUITY.

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. CO.,

Respondent.

**Bond on Appeal No. 14,772.**

Know All Men By These Presents, that the undersigned J. Kitchen Jr. Co. of the City and County of San Francisco, State of California, the appellant herein, as principal, and the American Bonding Company, of Baltimore, a corporation organized under the laws of the State of Maryland, and duly licensed to transact its business in the State of California, as surety, are held and firmly bound unto the above-named appellee, Alexander Levison, in the sum of five hundred and 00/100 dollars (\$500.00), lawful money of the United States of America, to be paid to said appellee, his heirs and assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of the above obligation is such, that whereas, said appellant has taken an appeal to the

United States Circuit Court of Appeals for the 9th Circuit, to reverse the final order and decree rendered and entered by the Circuit Court of the United States, 9th Judicial Circuit, in and for the Northern District of California, in the case entitled Alexander Levison vs. J. Kitchen Jr. Co., No. 14,772, which said final order and decree was rendered and entered in said Circuit Court on the 8th day of August, 1910, being a day in March term, of said Circuit Court, and an appeal allowed superseding said decree.

Now, therefore, if the above-named appellant shall prosecute said appeal to effect, and answer all damages and costs, if it shall fail to make good its plea, then this obligation shall be void, otherwise to remain in full force and effect.

In witness whereof, the seal and signature of said principal is hereto affixed and the corporate name of the said surety is hereto affixed and attested by its duly authorized officer at San Francisco, California, this twelfth day of August, 1910.

[Seal John Kitchen Co.]

JOHN KITCHEN JR. CO.

By JOHN KITCHEN, JR.,

Pres.

[Seal American Bonding Co.]

AMERICAN BONDING COMPANY OF  
BALTIMORE,

By JOY LICHTENSTEIN,

Agent and Attorney in Fact.

Approved this 12th day of August, 1910.

WM. C. VAN FLEET,

Judge.

[Endorsed]: Filed Aug. 12, 1910. Southard Hoffman, Clerk. By J. A. Schaertzer, Deputy Clerk.

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**[Certificate of Clerk U. S. Circuit Court to Record  
on Appeal.]**

*In the Circuit Court of the United States, Ninth  
Judicial Circuit, Northern District of California.*

No. 14,772.

ALEXANDER LEVISON,

Complainant,

vs.

J. KITCHEN JR. CO.,

Defendant.

I, Southard Hoffman, Clerk of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Northern District of California, do hereby certify the foregoing two hundred and twenty-eight pages, numbered from 1 to 228, inclusive, to be a full, true and correct copy of the record and proceedings in the above-entitled cause, excepting therefrom the following original exhibits, viz.: Complainant's Exhibits "A," "B," "C," "D," "E," "F," "G," "H," "I," "K," "L," "M," "N," "O," "P," "Q," "R," "S," "T," "U," "V," "W," "X," "Y," "Z," "AA," and "BB," and Defendant's Exhibits Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 (which by order of Court are allowed to be withdrawn and transmitted



herewith as a part of this record), and that the same constitutes the record on appeal to the United States Circuit Court of Appeals, for the Ninth Circuit.

I further certify that the cost of the foregoing Transcript of Record on appeal is \$135.20; that the said amount was paid by Charles E. Townsend, solicitor for defendant, and that the original citation issued in said cause is hereto annexed.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said Circuit Court, this 8th day of September, A. D. 1910.

[Seal]                      SOUTHARD HOFFMAN,  
Clerk of the Circuit Court of the United States,  
Ninth Judicial Circuit, Northern District of  
California.

---

**[Citation (Original).]**

UNITED STATES OF AMERICA,—ss.  
The President of the United States, to Alexander  
Levison, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals, for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, on the 10th day of September, 1910, being within thirty days from the date hereof, pursuant to an order allowing appeal filed in the Clerk's office of the Circuit Court of the United States, for the Northern District of California, wherein J. Kitchen Jr. Co. is appellant, and you are appellee, to show cause, if any there be, why the Interlocutory Decree rendered

against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable WILLIAM C. VAN FLEET, United States District Judge for the Northern District of California, this 15th day of August, A. D. 1910.

WM. C. VAN FLEET,  
United States District Judge.

Service of within Citation, by copy, admitted this 15th day of August, A. D. 1910.

MILLER & WHITE,  
Attorney for Alexander Levison.

[Endorsed]: No. 14,772. In the Circuit Court of the United States for the Ninth Circuit, Northern District of California. Alexander Levison vs. J. Kitchen Jr. Co. Citation. Filed August 17th, 1910. Southard Hoffman, Clerk. By J. A. Schaertzer, Deputy Clerk.

---

[Endorsed]: No. 1900. United States Circuit Court of Appeals for the Ninth Circuit. J. Kitchen Jr. Company (a Corporation), Appellant, vs. Alexander Levison, Appellee. Transcript of Record. Upon Appeal from the United States Circuit Court for the Northern District of California.

Filed September 8, 1910.

F. D. MONCKTON,  
Clerk.

**Complainant's Exhibit "B."**

[Endorsed]: #12,005. A. Levison, Manifold Books. Reissued July 1st, 1902. No. 14,772. In U. S. Circuit Court, Northern District of California. Alex. Levison vs. J. Kitchen Jr. Co. Complainant's Exhibit "B." E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Complainant's Exhibit "B." Received Sep. 8, 1910. F. D. Monckton, Clerk.



A. LEVISON.  
MANIFOLD BOOK.

(Application filed Mar. 13, 1902.)

Fig. 1

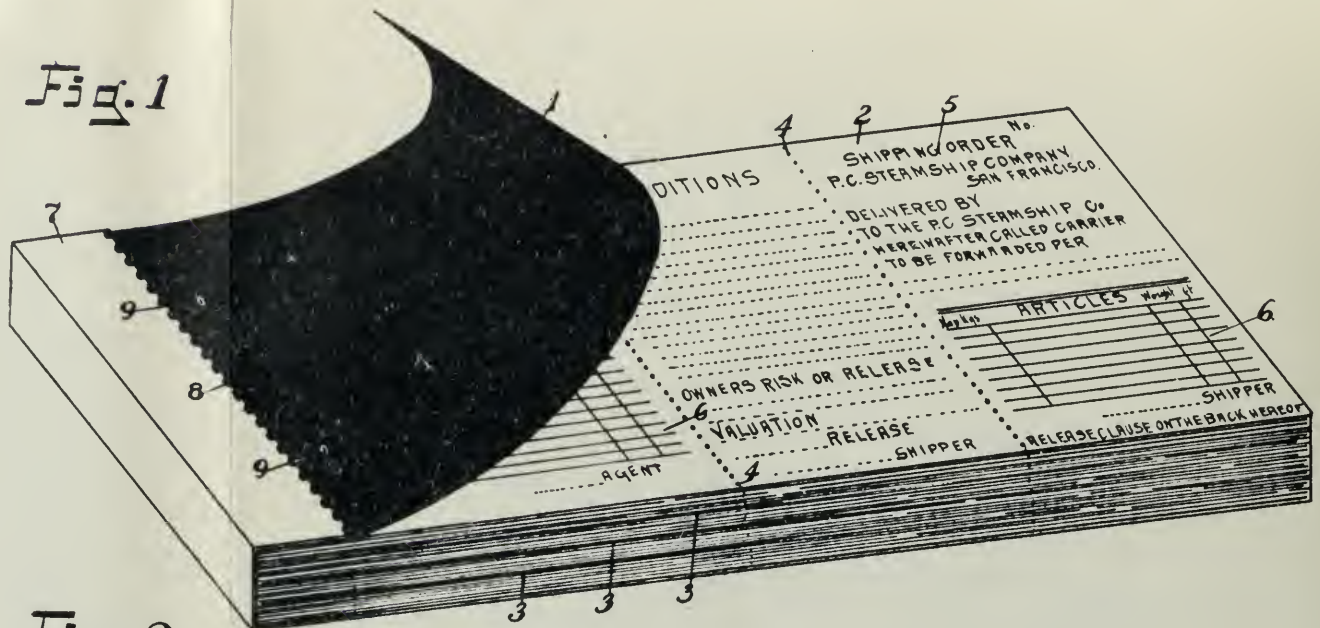


Fig. 2

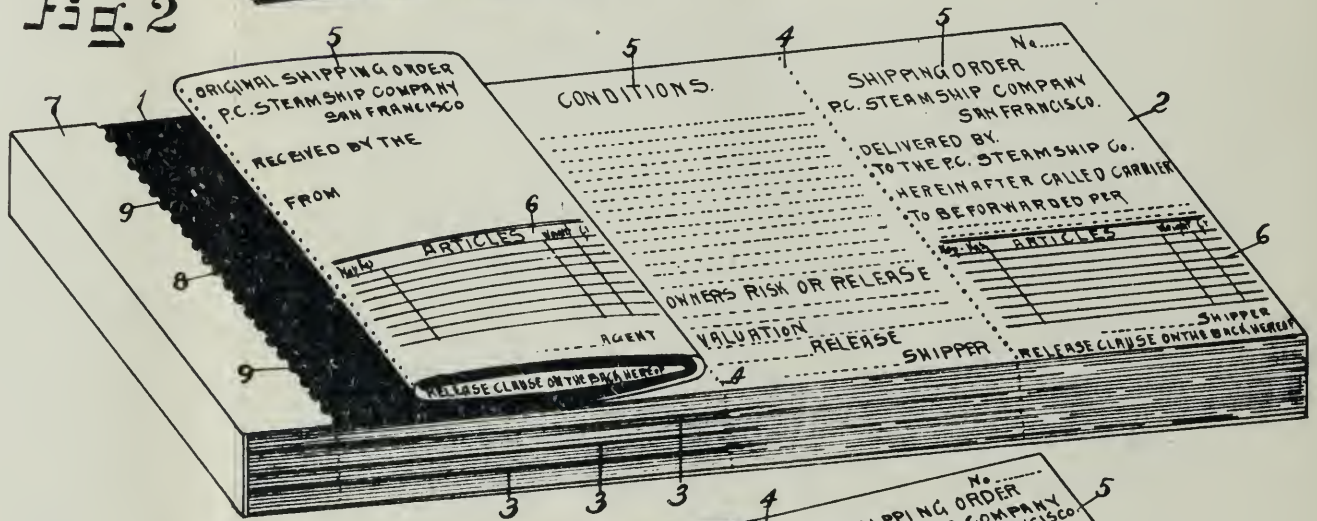
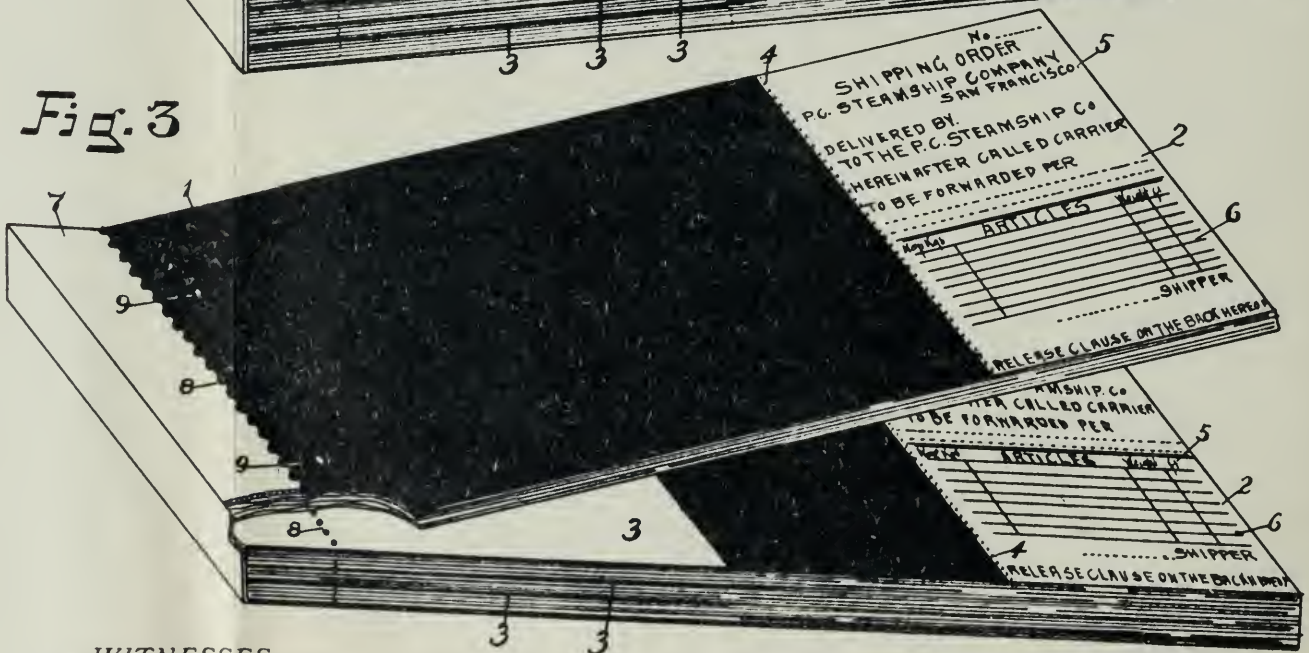


Fig. 3



WITNESSES:

*Geas Thane Larsen.*  
*Russie Gorfinkel.*

INVENTOR.

*Alexander Levison*  
BY *Francis M. Wright*  
ATTORNEY.



# UNITED STATES PATENT OFFICE.

ALEXANDER LEVISON, OF SAN FRANCISCO, CALIFORNIA.

## MANIFOLD-BOOK.

SPECIFICATION forming part of Reissued Letters Patent No. 12,005, dated July 1, 1902.

Original No. 694,103, dated February 26, 1902. Application for reissue filed March 13, 1902. Serial No. 98,113.

*To all whom it may concern:*

Be it known that I, ALEXANDER LEVISON, a citizen of the United States, residing at San Francisco, in the county of San Francisco and State of California, have invented certain new and useful Improvements in Manifold-Books, of which the following is a specification.

My invention relates to an improved manifold receipt and record book for mercantile, railway, express, or other business uses.

The object of my invention is to provide a book of this character which shall be convenient in use, economical in the number of carbons required, which shall give secure protection against alterations and forgeries, and the sheets of which can be readily and conveniently placed on record after the impression has been taken.

My invention therefore resides in the novel construction, combination, and arrangement of parts for the above ends hereinafter fully specified, and particularly pointed out in the claims.

In the accompanying drawings, Figure 1 is a perspective view of one of my improved manifold-books before use. Fig. 2 is a similar view showing the position when folded for use; and Fig. 3 is a perspective view of the book, a number of sheets being turned up and the book being broken away to show a cardboard backing and carbon-paper.

Referring to the drawings, it will be seen that my improved manifold-book is formed in sections, each section comprising in order, first, a carbon-sheet 1, of about two-thirds the width of the book; then below said carbon-sheet 1 a number of sheets 2, of ordinary paper, the full width of the book; then a sheet 3 of hard thick cardboard. Each record-sheet outside the stub 7 is divided into three substantially equal parts by vertical lines of perforations 4, said parts having suitable printed matter 5 and blank lines 6, whereon to inscribe the desired record. The carbon-sheets 1 are of sufficient width to extend over two of said parts, while the cardboard backing 3 occupies the width of the inner parts only of the sheets above it. The record-sheets and the cardboard backings are attached to stubs 7 along lines of perforations 8, so that they can be readily detached from said stubs, and said

stubs and one side of each carbon-sheet are all bound together to form a book.

In use the record-sheet is first folded on the outer line of perforations 4, so as to cover about one-half of the carbon-sheet, and it is then folded in the same direction on the second line of perforations, so that the carbon is now folded inside of the record-sheet, as shown in Fig. 2. The record will now be written upon what was the back of the middle portion of the sheet when it was flat and unfolded, which will now, however, have come to the top. The carbon-sheet is double or carbonized on both sides, so that a copy of the record will be made upon each of the two terminal parts of the sheet. Also an inverted or backhanded copy of the writing will be formed upon the back of each part, except the inner one. This latter feature gives additional security against subsequent alteration of the record, since it is difficult to erase and rewrite both the original and the reverse copy.

The use of the cardboard backing is to provide a hard substance to form a smooth writing-surface and also to protect the carbon-paper and sheets below it from receiving an impression written upon a sheet above said backing. The inner edge of the inner part of the record-sheet is punched with two holes to facilitate the filing of said part.

It has been already stated that the three separable parts of each recording-sheet are substantially equal. They are not exactly equal, since it is preferable to provide the innermost part with an unprinted additional space or margin next the stub through which are punched the holes 9 to facilitate the filing of said part. Moreover, it is better to leave a small space between the edge of the sheet when folded and the line of perforations 8, as this renders it easier to fold the parts. With this exception the separable parts of each recording-sheet are of the same size and in general will contain identical printed matter thereon.

The advantages of the above construction are that any kind of paper can be used for the record-sheets, and the construction does not require any transparent paper. The carbon naturally falls into the position for use for the next record-sheet when one record-



sheet has been removed and the record-sheet is very readily folded in the desired manner, the fold being twice in the same direction. The device is economical of carbon-paper.

5 The cardboard backings are an important feature of my invention, since they permit a large number of sheets to be bound into a book with a small number of carbons without any danger of transmitting an impression from one sheet to another sheet. They are readily removable by means of the lines of perforations when all the sheets above them have been used.

I claim—

15 1. A manifold-book composed of sections, each section comprising in order a double carbon-sheet, a plurality of recording-sheets, and a cardboard backing, the record-sheets outside the stubs being divided into three  
20 substantially equal separable parts, the carbon-sheets extending the width of two of said parts, and the cardboard backing extending the width of one of said parts, said recording-sheets and backings having stubs  
25 to which they are attached along lines of perforations, said stubs and one side of each carbon-sheet being all bound together to form a book, substantially as described.

30 2. A manifold-book comprising in order a double carbon-sheet, a plurality of recording-sheets, and a cardboard backing, the record-sheets outside the stubs being divided into three substantially equal separable parts, and the carbon-sheet extending the width of  
35 two of said parts, said recording-sheets having stubs to which they are attached along lines of perforations, said stubs and one side of the carbon-sheet and backing being all bound together to form a book, substantially  
40 as described.

3. A manifold-book comprising in order a

double carbon-sheet, and a plurality of recording-sheets, the record-sheets outside the stubs being divided into three substantially equal separable parts, and the carbon-sheet extending the width of two of said parts, said recording-sheets having stubs to which they are attached along lines of perforations, said stubs and one side of the carbon-sheet being all bound together to form a book, substantially as described.

4. A manifold-book comprising in order a double carbon-sheet, and a plurality of recording-sheets, each of said sheets outside the stubs being divided into a plurality, not less than three, of substantially equal separable parts, and the carbon-sheet extending the width of said parts except the outermost, said recording-sheets having stubs to which they are attached along lines of perforations, said stubs and one side of the carbon-sheet being all bound together to form a book, substantially as described.

5. A manifold-book comprising in order a double carbon-sheet, and a plurality of recording-sheets, each recording-sheet outside the stub being divided into a plurality not less than three of separable parts joined along lines of perforations, each part being not greater than the part next it on the side toward the stub, and the carbon-sheet extending the width of the whole of said parts except the outermost, said recording-sheet having stubs to which they are attached along lines of perforations, said stubs and one side of the carbon-sheet being all bound together to form a book, substantially as described.

A. LEVISON.

Witnesses:

FRANCIS M. WRIGHT,  
BESSIE GORFINKEL.

**Complainant's Exhibit "C."**

	Peerless.	Machine.	Duplex.	Baker Vorter.
Mission St.				
Whittier Coburn Co.....	1			
Pacific Pipe Co.....	1			
Paynes Bolt Works .....	1			
J. A. Folger .....		1		
Corson Gas Engine Co.....	1			
Brandstein .....		1		
Chevalier Co.....	1			
Pacific Steel & Supply Co.....	1			
Pacific Tool & Wire Co.....	1			
Pacific Coast Rubber Co.....	1			
Jones Drayage Co.....	1			
C. C. Moore Co.....	1			
Pacific Mill & Supply Co.....	1			
Pennsylvania Rubber Co.....	1			
Richardson & Berlin .....		1		
F. A. Worth Drayage Co.....	1			
Eureka Boiler Works .....	1			
Studebaker Bros.....	1			
Libby & McNeil .....	1			
Helbing Hat Co.....	1			
W. P. Fuller Co.....	1			
Union Gas Engine Co.....	1			
DeFremery & Co.....	1			
Shea, Bocqueraz & Co. ....			1	
Neustadter Bros.....	1			
Hollabird & Reynolds .....	1			
Laventhal & Co.....	1			
Cahn, Nickelsburg Co.....	1			
Mangram, Otter Co.....		1		
Troy Laundry Machinery Co.....	1			
American Drug Co.....	1			
Wallenstein & Hanly .....	1			
Mauzy Reid Shoe Co.....	1			
Buckingham & Hecht Co.....		1		
Diamond Rubber Co.....	1			
George H. Tay Co.....	1			
Dolliver & Bros.....	1			
Gosliner & Co. ....			1	

	Peerless.	Machine.	Duplex.	Baker Vorter.
Sloane & Co.....	1			
Keystone Type Foundry .....	1			
Gerson Breyer Co.....	1			
Lemle Levy Co.....	1			
Library Bureau .....	1			
Western Builders Supply Co.....	1			
Oberdeener Co.....	1			
Howard St.				
Garlock Packing Co.....	1			
Conreich & Co.....	1			
William Marvin Co.....		1		
Jesse Moore Hunt Co.....	1			
Kinney & Co.....	1			
Occidental Supply Co.....	1			
Western Tool Co.....			1	
Thompson Drayage Co.....			1	
Crane & Co.....	1			
E. A. Howard & Co.....	1			
Allens & Higgins Lumber Co.....	1			
Standard Copper Works .....	1			
White Bros.....	1			
H. N. Cook Belting .....	1			
Abner Doble Co.....	1			
Ward & Son .....	1			
Butter Drayage Co.....	1			
Barton Squires Co.....	1			
Continental Steel & Supply Co.....	1			
Nolan Drayage Co.....	1			
H. M. Rogers Co.....	1			
Pratt & Lambert .....	1			
Egan Shoe Co.....	1			
Folsom St.				
Rosenblatt .....		1		
S. O. Meyer Mfg. Chemist .....	1			
G. W. Caswell Co.....		1		
Schilling Tea Co.....	1			
Lally & Co.....	1			
	<hr/>	<hr/>	<hr/>	
	61	7	4	



	Peerless.	Machine.	Duplex.	Baker Vorter.
Total forward.....	61	7	4	
Fairbanks, Morse Co.....	1			
Simonds Saw Works .....	1			
Johns Manville Co.....	1			
Steuart St.				
Ray Manufacturing Co.....	1			
Squires Byrnes Co.....	1			
Morton Special Delivery Co.....	1			
McGriffick & Co. ....	1			
People's Express Co.....	1			
Great Western Smelting Co. ....	1			
Spear St.				
Sperry Flour Co.....	1			
Sussman Wormser Co.....	1			
DeLano Bros.....	1			
Seller Bros.....	1			
Kuhls, Schwarke Co.....	1			
Mission St.				
Rothschild .....				1
Heyman, Weil Co.....	1			
Goldstone .....	1			
Greenebaum, Weil & Michels .....	1			
California Blanket & Flannel Mills.....	1			
Samter & Co.....	1			
Eastman Kodak Co.....	1			
Mandel, Weiner Co.....	1			
Main St.				
J. Whelen & Co.....	1			
Foucar, Ray & Simon.....	1			
Taber, Bigelow Co.....	1			
Hasford Bros.....	1			
S. Foster .....	1			
H. Peterson & Co.....		1		
Wilmerding, Loewe Co.....	1			
Josselyn Co.....	1			
Plant Rubber Co.....	1			
Wm. Wolf Co.....	1			
Whittier, Coburn Co.....	1			

	Peerless.	Machine.	Duplex.	Baker Vorter.
Greenberg & Son.....	1			
Murray Bros.....	1			
Merten & Co.....	1			
Beale St.				
Sun Tent & Awning Co. ....		1		
Jos. Wagner .....			1	
Sherwood & Sherwood .....	1			
Anglo-American Crockery Co.....	1			
John Wehthe Co.....	1			
A. Pickthall .....	1			
Fremont St.				
Jones, Paddock Co.....	1			
A. J. Rankin .....	1			
H. Bohls Co.....	1			
Eberhard & Co.....	1			
Engineering Maintenance Co.....	1			
Woodin & Little .....	1			
Henshaw, Bulkley .....	1			
Grafton & Knight .....	1			
Gorham Rubber Co. ....		1		
Asbestos Manufacturing Co.....	1			
Hale Bros.....	1			
Union Transfer Co.....	1			
Second St.				
Goodyear Rubber Co.....	1			
A. & J. R. Cook.....	1			
Wieland Brewery .....	1			
Sterling & Co.....	1			
H. Campe .....	1			
Keystone Bros.....	1			
Scattering.				
Ulman, Seeligshon & Brown .....	1			
Johns, Manville Co.....	1			
Farnsworth Electrical Co.....	1			
Brooks, Follis Co.....	1			
Sterling Electrical Co.....		1		
Standard Electrical Co.....	1			

	Peerless.	Machine.	Duplex.	Baker Vorter.
First St.				
Langley, Michels .....	1			
Eagleson, Hawkins Co.....	1			
Gutta Percha Rubber Co.....	1			
Eccles, Smith Co.....	1			
C. W. Marwedel Co.....	1			
Revers Rubber Co.....	1			
Bonestell & Co. ....	1			
	<hr/>	<hr/>	<hr/>	<hr/>
	128	11	5	1
Total forward .....	128	11	5	1
Mees & Gottfried .....	1			
San Francisco Mill Furnishing Co.....	1			
Pacific Sheet Metal Works.....	1			
Fairbanks, Morse Co.....	1			
Simond Manufacturing Co.....	1			
J. H. Butcher .....		1		
Selby Smelting & Refining Co.....	1			
Jackson Iron Works .....	1			
Golden State & Mission Iron Works.....	1			
California Ink Co.....	1			
Spottswood-Helfer Co.....	1			
Grant Leonard & Co.....	1			
Scattering.				
Brown Forman Co. ....	1			
E. Goslinsky Co. ....	1			
Lachman Jacobi .....	1			
Arata Barbieri Co. ....	1			
Marani & Cassi Co. ....	1			
Mission St.				
McLeod Hatje Co. ....	1			
San Francisco Casket Co. ....	1			
Livingston Co. ....	1			
Taussig Co. ....	1			
Nonotuck Silk Co. ....	1			
Pacific Heater & Blower Co. ....	1			
Chemical Engine Co. ....	1			
Davis & Son .....	1			
Harband Bros. ....	1			

	Peerless.	Machine.	Duplex.	Baker Vorter.
Broadway Brewing Co. ....	1			
Jacob Unna ....	1			
Brunswick-Balke-Collender Co. ....	1			
Hirschfelder & Meany ....	1			
Henry Rhine Co. ....	1			
Sunset White Lead Works ....	1			
Crescent Feather Co. ....		1		
Pelton Water Co. ....	1			
Enterprise Foundry ....	1			
Long Syrup Co. ....	1			
California Paper Box Co. ....	1			
Mission Soap Co. ....	1			
L. P. Degnan Co. ....	1			
Steiger Kerr Stove Co. ....	1			
H. Freiderichs ....	1			
C. A. Malm Co. ....	1			
Schlesinger & Bender ....	1			
Gottfried Meese Co. ....	1			
Great American Importing Tea Co. ....	1			
John P. Cleese Co. ....	1			
McRoskey Co. ....	1			
Harry Johnson Co. ....	1			
Ruhstaller Beer Co. ....	1			
French American Wine Co. ....	1			
<sup>3</sup> Jackson St.				
H. C. Fisher ....	1			
Standard Biscuit Co. ....		1		
A. Guilani & Co. ....	1			
J. Revalk ....	1			
A. Cora ....	1			
Berton & Leport ....	1			
<sup>3</sup> Columbia Paste Co. ....	1			
Brizzolara & Sons ....	1			
Cutter Drayage Co. ....		1		
Geoffrey Drayage Co. ....	1			
Garcia & Maggini ....	1			
Scatena Co. ....	1			
Oliveto Wine Co. ....	1			



	Peerless.	Machine.	Duplex.	Baker Vorter.
Washington St.				
C. C. Moore Co. ....	1			
Coughlin Drayage Co. ....	1			
Statson Renner Co. ....	1			
William Peck Co. ....				1
Western Fish Co. ....	1			
Kohlberg Co. ....	1			
D. N. Schoenfield ....	1			
L. R. Podesta ....	1			
	<hr/>	<hr/>	<hr/>	<hr/>
	194	15	5	2
Total forward .....	194	15	5	2
Hetteride & Co. ....	1			
Cerruti Mercantile Co. ....	1			
Brown Strauss Co. ....	1			
A. Sonntag Co. ....	1			
Milan Cerrera ....	1			
Lubert & Escola ....	1			
Joundin Co. ....	1			
Joundin Co. ....	1			
H. Zanco Co. ....	1			
Ivanovich Co. ....	1			
California Produce Co. ....	1			
Chambers, Lemos & Hanscom ....	1			
Jacob Malcolm ....	1			
Scatena Co. ....	1			
San Francisco Produce Co. ....	1			
Castenetti Belt Co. ....				1
N. Botto Co. ....	1			
Clay St.				
Voohries Co. ....	1			
Moorehouse, Nelson & Le Baron ....	1			
L. R. Lazerlere ....		1		
Wichmans-Lutgen Co. ....		1		
Marshall Reimers Co. ....	1			
Fred B. Haright ....	1			
McCullough ....	1			
Benjamin Harris Co. ....	1			
Makins Produce Co. ....	1			

	Peerless.	Machine.	Duplex.	Baker Vortex.
Bishop & Co. ....	1			
Kron Tanning Co. ....	1			
Louis Zeiss & Sons ....	1			
Mitchell & Goodall ....	1			
Levy & Zettner ....		1		
Hunt-Hatch Co. ....	1			
Giovanni Co. ....	1			
Simon Levy Co. ....			1	
Adolph Hariss ....	1			
Giovanni & Pera ....	1			
Claudius & Co. ....	1			
Green & Foster ....	1			
Felix Coblitz ....	1			
Schlengel & Co. ....	1			
Pacific Drayage Co. ....	1			
Bray Bros. ....	1			
Jacobsen Reimers Co. ....	1			
Paul Keyser Co. ....			1	
M. D. Kant ....	1			
Smith Leyden Co. ....	1			
Vonn Ronn Lohrsbach ....	1			
Courier Produce Co. ....	1			
English Wallace Co. ....	1			
Sansome St.				
Hildebrandt-Posner Co. ....	1			
Roth, Bloom Co. ....	1			
Guggenhime Co. ....	1			
Murphy-Grant Co. ....	1			
Heller Klein Co. ....	1			
Johnson Locke Co. ....	1			
Rothenberg Co. ....	1			
Sevin Vincent Co. ....			1	
Wilner Bottle Supply Co. ....			1	
C. Nauman Co. ....	1			
Battery St.				
L. Dinkelspiel Co. ....	1			
Levi Strauss Co. ....	1			
Eloesser Heyneman Co. ....			1	
Willard Bros. ....	1			

	Peerless.	Machine.	Duplex.	Baker Vorter.
Cartan, McCarthy Co. ....	1			
S. H. Frank .....	1			
B. Seiller .....	1			
Davis St.				
Farnsworth, Ruggles Co. ....	1			
Wheaten Harrold Co. ....		1		
San Francisco Drayage Co. ....	1			
Kilmer & Co. ....	1			
James Force Co. ....	1			
	<hr/>	<hr/>	<hr/>	<hr/>
	256	19	11	2
Total forward .....	256	19	11	2
E. A. Fargo & Co. ....	1			
Snook & Co. ....	1			
Front St.				
Atlantic Fish Co. ....	1			
Galli Fruit Co. ....				1
M. Wetmore Co. ....			1	
Minaker .....	1			
Eveleth Nash Co. ....	1			
Growers Protective Assn. ....			1	
Levaggi, Granucchi & Garibaldi .....	1			
Sanford Co. ....	1			
Ballinger .....	1			
North American Mercantile Co. ....	1			
Sutter Home Wine & Distilling Co. ....	1			
California Fireworks Co. ....	1			
Western Transfer & Storage Co. ....	1			
M. A. Gunst Co. ....	1			
Klatt & Hirsch Co. ....	1			
Thos. E. Dunne Co. ....	1			
H. Helbash Co. ....	1			
Hyland & Jarvis .....	1			
Levinson & Co. ....	1			
Battery St.				
Heyneman & Co. ....	1			
J. Bollman Co. ....	1			
Chas. F. Thierbach .....	1			

	Peerless.	Machine.	Duplex.	Baker Vorter.
Ami Vignier Co. ....	1			
Pacific States Type Foundry ....	1			
D. De Bernardi & Co. ....	1			
Irvine & Co. ....	1			
Newton Gum Co. ....	1			
Saroni & Co. ....	1			
Standard Gas Engine Co. ....	1			
Front St.				
Levaggi & Co. ....	1			
Hammer & Co. ....	1			
Onesti & Ducati ....	1			
J. N. Sresovich Co. ....	1			
Hopkins Co. ....	1			
Jos. Herrescher Co. ....	1			
Roussell Davidson ....	1			
South San Francisco Packing Co. ....			1	
Sherry Frietas Co. ....	1			
Rothsberger Co. ....	1			
L. T. Snow ....	1			
Rothenberg Co. ....	1			
Ehrman Bros. ....	1			
Moorehouse Co. ....	1			
Demartini Co. ....	1			
L. E. Boyle ....	1			
Western Wire Equipment Co. ....	1			
Justinian Caire Co. ....	1			
Davis St.				
Marshall Taggart Co. ....	1			
Herman Heyneman ....	1			
Ivancovich Trobock ....	1			
Ragoletti Corosi ....	1			
Portuguese Commercial Co. ....	1			
Getz Bros. ....	1			
C. Baldochi ....			1	
Olcese & Co. ....	1			
Pacific Produce Co. ....	1			
L. Harter Co. ....			1	
Wetzell & Baker ....	1			
Harburgh & Co. ....	1			



	Peerless.	Machine.	Duplex.	Baker Vorter.
Haas Co. ....	1			
McNab & Smith ....	1			
Repsold & Co. ....	1			
Drumm St.				
Otzen & Co. ....	1			
W. A. Plummer ....	1			
Jacobsen Malcolm ....	1			
Dunbar & Harris ....	1			
Jones & Erlanger ....	1			
Schultz & Hansen ....	1			
Kingan ....	1			
	<hr/> 321	<hr/> 19	<hr/> 16	<hr/> 3
Total forward .....	321	19	16	3
Messrs. Garcia & Maggini Co. ....	1			
Cutter & Co. ....	1			
Welsbank & Co. ....	1			
Harris, Roder & Wetherbee ....	1			
California Fruit Cannerns Assn. ....	1			
Horn & Co. ....	1			
Morris Bros. ....	1			
Kinsman, Grimes & Miller ....	1			
De Lavel ....	1			
Martin Dangiers ....				1
South of Folsom St., West of Third St.				
C. F. Weber & Co. ....	1			
A. C. Boldeman & Co. ....	1			
Great Western Meat Co. ....		1		
Geo. H. Croley ....	1			
Geo. Thompson ....	1			
Winsor Patent Terra Cotta Works ....	1			
Van Arsdale Harris Lumber Co. ....	1			
Nehouse Hardware Co. ....	1			
Union Transfer Co. ....	1			
John Horstman Co. ....	1			
S. H. Harmon Lumber Co. ....	1			
Ocean Shore Iron Works ....	1			
Rulofsen Metal Works ....	1			

	Peerless.	Machine.	Duplex.	Baker Vortec.	McNutt, Kahn.
Cribben & Sexton .....	1				
Carl Cooperage Co. ....	1				
California Saw Works .....	1				
K. C. Schmidt .....	1				
Shasta Water Co. ....			1		
Eilers Music Co. ....	1				
D. N. & E. Walter & Co. ....	1				
Homes Lime Co. ....	1				
Robinson Co. ....	1				
Redwood Lumber Co. ....	1				
Lyons-Raas Co. ....	1				
Valvoline Oil Co. ....	1				
Guittard Co. ....	1				
Phoenix Furniture Co. ....	1				
Milwaukee Furniture Co. ....	1				
Standard Wall Paper Co. ....	1				
Midvale Steel Co. ....	1				
J. R. Cole .....	1				
Yates ....			1		
Lansing Wheelbarrow Co. ....	1				
American Electrical Novelty Co. ....	1				
Royal Heating Co. ....			1		
Jesse M. Levy Co. ....	1				
M. Friedman & Co. ....	1				
Western Basket Co. ....	1				
C. G. Clinch .....	1				
Pacific Oil & Lead Co. ....	1				
M. E. Moraghan Oyster Co. ....	1				
Nevada Gypsum Co. ....	1				
Western Asbestos Magnesia Co. ....			1		
United Cigar Co. ....	1				
Sunset Feather Co. ....	1				
Enterprise Paper Box Factory Co. ....	1				
Riddle Bros. ....			1		
California Artistic Metal & Wire Co. ....	1				
N. K. Davis Machine Works .....				1	
Western Art Metal Works .....	1				
Patek & Co. ....	1				
Swift & Co. ....	1				
Shasta Water Co. ....				1	

	Peerless.	Machine.	Duplex.	Baker Vorter.	McNutt, Kahn.
Winsor Pottery Co. ....	1				
Aetna Mills .....					1
Pacific Butcher Supply Co. ....	1				
Lamson Cash & Parcel Express .....	1				
Scovel Iron Store Co. ....					
California Art Glass Co. ....			1		
Raisin & Zabura .....			1		
O. N. Nelson .....			1		
Sterling Furniture Co. ....	1				
Royal Worcester Corset Co. ....	1				
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	380	20	24	6	1
Total forward .....	380	20	24	6	1
Mission St.					
E. E. George Shoe Co. ....	1				
A. Armier Co. ....	1				
Whitaker Ray .....	1				
Golden Gate Yeast Co. ....	1				
Berger Manufacturing Co. ....	1				
T. H. Meek .....	1				
Builders Supply Co. ....	1				
Emporium ....	1				
De Laporte .....	1				
Eng Skell Co. ....	1				
Consolidated Electric Appliance Co. ....	1				
Marwedel & Co. ....	1				
Thomas Co. ....	1				
Roth Herbert Co. ....	1				
U. S. Faucet Co. ....	1				
Boesch Lamp Co. ....	1				
A. Galet .....	1				
Tyndall .....			1		
Hoffman Robinson .....	1				
California Casket Co. ....	1				
Roberts Mfg. Co. ....	1				
Son Bros. ....	1				
Indianapolis Furniture Co. ....	1				
Naber, Alfs & Brune .....	1				
California Upholstery Co. ....					1

	Peerless.	Machine.	Duplex.	Baker Vort.	McNutt, Kahn.
Bernhardt Mattress Co. ....	1				
O'Rourke Eubanks Hat Co. ....	1				
The Elkus Co. ....	1				
Folsom St.					
Geo. Solch Co. ....	1				
Parks Bros. ....	1				
Charles Harley ....	1				
Holt ....	1				
R. B. Moore Lumber Mill Co. ....	1				
Atalass Brass Works ....	1				
American Faucet Co. ....	1				
Pacific Preserve Co. ....			1		
Heywood Bros. & Wakefield Co. ....	1				
Joost Bros. ....			1		
Penn Hardware Co. ....	1				
Mission St., between First and Third Sts.					
Serwe & Prien ....	1				
Emerson Drug Co. ....	1				
Johansen Bros. Shoe Co. ....	1				
Laventhal Bros. ....	1				
American Druggist Syndicate ....	1				
Jas. Thieben ....			1		
Thompson Glove Fitting Corset Co. ....	1				
Whitall Tatum Co. ....	1				
Wm. Grosse ....	1				
F. C. Anderson ....	1				
Scattering.					
Electric Hose Rubber Co. ....	1				
Oceanic Wholesale Co. ....	1				
Imperial Cash Store ....	1				
Spiro Harness Co. ....	1				
J. O. Kane ....			1		
Mission St.					
Gerson & Breyer ....	1				
Lemle Levy Co. ....	1				
Louis Strauss ....	1				
Fort Wayne Electric Works ....	1				
Pleasanton Drayage Co. ....	1				



	Peerless.	Machine.	Duplex.	Baker Vorter.	McNutt, Kahn.
Waldron & Deitrich Co. ....	1				
Moore & Shahan .....			1		
Western Builders Supply Co. ....	1				
Main St.					
U. S. Glass Co. ....					
Herman Safe Co. ....	1				
J. Spencer Turner Co. ....	1				
Bergfeldt Co. ....	1				
Olson & Cook .....	1				
Oceanic Express Co. ....	1				
A. J. Gordon .....	1				
W. R. Bunting Drayage Co. ....	1				
Herzog & Dahl .....	1				
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	443	20	30	6	1
Total forward .....	443	20	30	6	1
Main St.					
Simpson & Fisher .....	1				
E. Henrix .....	1				
Main St. Iron Works .....	1				
Howe Scale Co. ....	1				
Moore & Scott .....			1		
Thos. F. Maher .....			1		
Enterprise Foundry .....		1			
Liberty Iron Works .....	1				
Golden Gate Gas Eng. ....			1		
California Tool Works.....	1				
South of Market, East of Third.					
Thos. Wagner .....			1		
Krough Mfg. Co. ....	1				
Ramona Candy Co. ....	1				
Thos. W. Collins .....	1				
Repold Select Vintage .....	1				
National Cash Store .....	1				
Saalburg Co. ....	1				
Waterbury Co. ....	1				
Western Creamery Co. ....			1		

	Peerless.	Machine.	Duplex.	Baker Vorter.	McNutt, Kahn.
Waldorf-Astoria Cigar Co. ....	1				
W. G. Stafford Co. ....	1				
Swain & Anderson ....	1				
J. R. McGuffick Co. ....	1				
Ford Barstow Co. ....			1		
J. R. Wilson ....	1				
Oakland Parcel Delivery ....	1				
Matthew Turner Co. ....	1				
Carley Drayage Co. ....	1				
Haviside, Withers & Davis ....	1				
Staples & Pfeiffer ....	1				
Morrison & Bevilockaway ....			1		
Peoples Express Co. ....	1				
Marshall Newell Supply Co. ....	1				
W. T. Garratt Co. ....	1				
Hills Bros. ....				1	
C. H. Evans ....	1				
Oscar Krenz Copper & Brass Wks. ....			1		
Betts Spring Works ....					1
Corliss Gas Engine Works ....			1		
Alaska Pacific S. S. Co. ....	1				
Keystone Boiler Works ....	1				
Easton Coal Co. ....			1		
Central Coal Co. ....	1				
Western Fuel Co. ....	1				
Union Fish Co. ....	1				
Oliver Salt Co. ....	1				
Western Iron Works ....	1				
Farren Hardware Co. ....	1				
Phoenix Tool & Valve Co. ....	1				
Blakeway Sheet Metal Works ....			1		
Sanders Copper Works ....	1				
Los. Dos Naciones Cigar Co. ....	1				
Imperial Whiskies ....	1				
Hamburger & Co. ....	1				
Newman Bros. ....	1				
Chauche & Bon ....			1		
Renald & Beebe ....			1		
A. Lazansky & Co. ....	1				
Schwarz Gottlieb ....	1				

	Peerless.	Machine.	Duplex.	Baker Vorter.	McNutt, Kahn.
Bancroft Whitney .....	1				
West Disinfecting Co. ....	1				
James Barker Co. ....	1				
Geo. Breck Co. ....	1				
Milton & Bradley .....	1				
California Hydraulic Co. ....	1				
Roman & Thomas .....	1				
Compressed Air Machinery Co. ....	1				
Smith Roberts Co. ....	1				
Crown Distilleries Co. ....	1				
Worthington Co. ....			1		
Geo. E. Dow Pump Works .....	1				
	497	21	44	7	2
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
Total forward .....	497	21	44	7	2
South of Market, West of Fourth.					
Redwood Manufacturing Co. ....	1				
Seymour & Elliot .....	1				
Haslett Warehouse Co. ....	1				
King & Co. ....	1				
Hartwood Lumber Co. ....	1				
Wilson Bros. & Co. ....			1		
W. A. Miller .....			1		
W. A. Magner Co. ....	1				
Union Oil Co. ....	1				
Doak Steel Co. ....	1				
Francis Smith Co. ....					1
Union Machine Co. ....	1				
Enterprise Foundry .....	1				
California Plumbing Supply Co. ....	1				
Pacific Bone Coal & Fertilizing Co. ....			1		
Scattering.					
Murphy Grant Co. ....	1				
Carlson Currier Co. ....	1				
Hirsch & Kaiser .....	1				
Edmusn Leowe Co. ....	1				
H. Semeria .....	1				
A. Shirek & Sons .....	1				
Washauer Bros. ....	1				

	Peerless.	Machine.	Duplex.	Baker Vortec.	McNutt, Kahn.
L. Kline Co. ....	1				
B. Schmidt ....	1				
Heller Klein ....	1				
Bauer Bros. ....	1				
California Fireworks Co. ....	1				
P. A. Smith Co. ....	1				
Sherman Clay Co. ....	1				
Scharlach Hat Co. ....	1				
Martin, Dangiers & Emerson ....				1	
W. A. Plummer ....	1				
Spohr & Co. ....	1				
City of Hamburg ....	1				
Galli & Co. ....				1	
Goldberg, Bowen & Co. ....	1				
Kisen Co. ....	1				
Ciocca Lombardi Co. ....	1				
Merle Co. ....	1				
Del Monte Milling Co. ....	1				
South of Market, West of Ninth.					
Kinspel Co. ....			1		
McNamara & Moran ....	1				
Hogan & Co. ....	1				
Oest & Co. ....	1				
D. Woerner Co. ....	1				
Illinois Glass Works ....				1	
Oakland Art Pottery Co. ....	1				
City Street Improvement Co. ....	1				
Mission Stove Works ....	1				
Wolf Lumber & Hardware Co. ....			1		
Paraffine Paint Co. ....	1				
Robinson Chemical Co. ....	1				
Bay City Iron Works ....	1				
Schrader Iron Works ....	1				
Consumers Ice Co. ....			1		
Ruffino & Bianchi ....	1				
Haines-Jones & Cadbury ....	1				
Arnstein Simon ....	1				
Berger, Carter Co. ....	1				
Somers Hay Co. ....	1				
	547	21	50	10	3



	Peerless & Machine.	Peerless & Duplex.	Peerless & Baker- Vorter.
Scattering.			
Cluff Bros. ....			1
Braun-Knecht-Heimann Co. ....	1		
Dalzelle Moeller Co. ....	1		
Berry Co. ....			1
Winslow ...	1		
Robling Wire Works ....	1		
Waterhouse & Lester ....	1		
Norton Teller Co. ....	1		
Electric Appliance Co. ....	1		
M. Getz ....	1		
Redington & Co. ....			1
Steiger Pottery Co. ....		1	
Newbour & Co. ....	1		
Columbia Coffee & Spice Co. ....		1	
Collins & McCarthy ....	1		
Zellerbach Paper Co. ....	1		
James & Hug ....	1		
Pacific Coast Syrup Co. ....	1		
E. Harris & Neville ....	1		
Smith Co. ....	1		
Wieland Bros. ....			1
Johnsons Harness & Saddlery Co. ....	1		
Electric Appliance Co. ....	1		
Sadler Co. ....	1		
Western Electric Co. ....	1		
Sherwin Williams Co. ....	1		
Fleischmann Co. ....	1		
Jos. Graham Mfg. Co. ....	1		
S. Bachman & Co. ....		1	
Cyclops Iron Works ....		1	
Rainier Beer Co. ....	1		
John Wood Manufacturing Co. ....		1	
N. Meyer Cigar Co. ....		1	
	—	—	—
	23	6	4

STATIONERS USING PEERLESS BOOKS.

Brown & Power.  
 Le Count, Clark & Ormond.  
 Dixon, Fish Co.  
 Payot, Strarford & Kerr.

Standard Office Supplies.  
 Hicks Judd Co.  
 Isaac Upham Co.  
 Sanborn Vail Co.  
 Schwabacher Frey.  
 Shapro Co.  
 H. S. Crocker Co.  
 Cunningham, Curtis & Welch.  
 Ehrlick Bros.  
 Rogers Stat. Co.  
 Carlisle & Co.  
 Hardy & Smith.  
 E. H. Wobber.  
 Emporium.  
 McNutt, Kahn Co.

#### RECAPITULATIONS.

Peerless, (exclusive) . . . . .	547
“ (combined) . . . . .	33
Stationers selling Peerless . . . . .	19

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Total Peerless . . . . .	599	PEERLESS.
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Machine, (exclusive) . . . . .	21
“ (combined) with Peerless . . . . .	23

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Total . . . . .	44	MACHINE.
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Duplex, (exclusive) . . . . .	50
“ combined with Peerless . . . . .	6

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Total . . . . .	56	DUPLEX.
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Baker Varter (exclusive) . . . . .	10
“ “ combined with Peerless . . . . .	4

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Total . . . . .	14	BAKER VORTER.
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McNutt, Kahn . . . . .	3	McNUTT, KAHN.
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[Endorsed]: List of Names Compiled by Mr. Williams. No. 14,772. In U. S. Circuit Court, Northern District of California. Alex. Levison vs. J. Kitchen Jr. Co. Complainant's Exhibit "C." E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Complainant's Exhibit "C." Received Sep. 8, 1910. F. D. Monckton, Clerk.

**Defendant's Exhibit No. 1.**

[Endorsed]: No. 14,772. In U. S. Circuit Court, Northern District of California. Levison vs. Kitchen Jr. Co. Defts. Exhibit No. 1. E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Defendant's Exhibit No. 1. Received Sep. 8, 1910. F. D. Monckton, Clerk.

(No Model.)

H. G. & J. B. BARLOW.  
 DEVICE FOR MANIFOLD COPYING.

No. 297,556.

Patented Apr. 29. 1884.

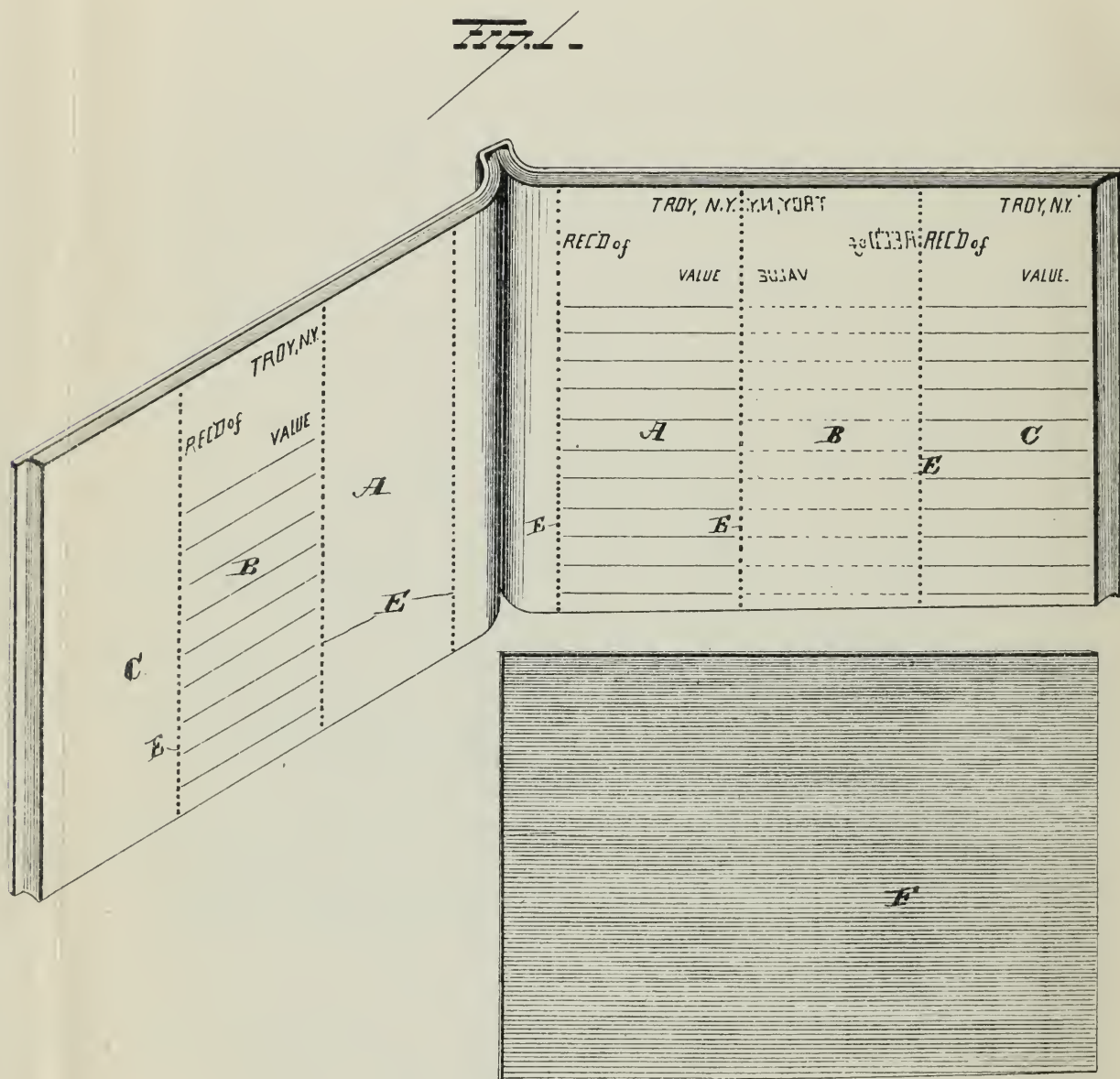
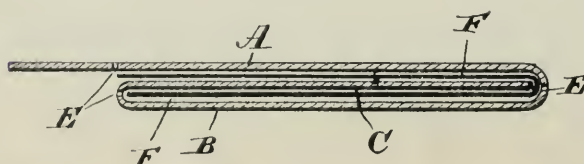


FIG. 2.



WITNESSES

S. G. Nottingham  
 Geo. F. Downing

INVENTOR

H. G. Barlow  
 J. B. Barlow  
 B. W. S. Sumner Attorney



# UNITED STATES PATENT OFFICE.

HEMAN G. BARLOW AND JOHN B. BARLOW, OF GRAND RAPIDS, MICH.

## DEVICE FOR MANIFOLD COPYING.

SPECIFICATION forming part of Letters Patent No. 297,556, dated April 29, 1884.

Application filed September 20, 1883. (No model.)

*To all whom it may concern:*

Be it known that we, H. G. BARLOW and J. B. BARLOW, of Grand Rapids, in the county of Kent and State of Michigan, have  
5 invented certain new and useful Improvements in Devices for Manifold Copying; and we do hereby declare the following to be a full, clear, and exact description of the invention,  
10 such as will enable others skilled in the art to which it appertains to make and use the same.

Our invention relates to an improvement in devices for manifold copying, the object being to facilitate the preparation of duplicate copies of writing by reducing the number  
15 of detached copying and blank sheets to the minimum.

With these objects in view our invention consists of blank sheets divided into three equal sections by lines of perforations, and  
20 printed in the manner herein shown and described, whereby the sections may be folded upon each other with a single sheet of copying-paper in such manner that matter written upon one section will be reproduced upon the  
25 other two.

In the accompanying drawings, Figure 1 is a view showing one side of one sheet and the opposite side of a similar sheet, and Fig. 2 is an end view of the blank as it appears when  
30 folded with a sheet of copying-paper having both of its faces carbonized.

The blanks are divided into three equal sections, A, B, and C, by lines E of perforations, which adapt the sections to be folded upon  
35 each other, and to be separated and distributed as required. The sections A and C are printed upon the same face of the blank, while the section B is printed upon the opposite face thereof.

The arrangement of the printing upon the sections is clearly shown in Fig. 1 of the drawings. It should be observed that the printing is arranged so that when the sections are folded upon each other the blank spaces between the printed lines will register. The  
45 copying-sheet F (shown in Fig. 2 of the drawings) is supposed to be carbonized on both sides; but paper carbonized on one side will

do as well, though perhaps not quite as convenient to handle.

In using the paper having both faces carbonized, a sheet of sufficient size to cover two of the three sections of each blank is employed. Such a sheet is laid over the printed side of section A and the unprinted side of  
50 section B. The section C is now folded to the left and laid upon the copying-paper covering the unprinted side of the section B. Then the two sections B and C, with the interposed copying-paper, are folded to the left and  
55 laid upon the copying-paper covering the section A. The printed surface of the section B becomes the uppermost, as the result of folding the blank in the manner described, and this section is accordingly written upon  
60 with a pencil, and the matter written is duplicated upon each of the sections A and C. When copying-paper having only one side carbonized is employed, a sheet sufficiently large to cover the entire blank is laid, with  
65 its carbonized face down, upon that surface of the blank exposing the printed side of the sections A and C. The outer end of the copying-paper, is then folded to the left to the width of one section of the blank, to ex-  
70 pose its carbonized face to the printed side of the section C, which is now folded upon it. The sections B and C, with the interposed copying-paper are then folded upon the section A, and the printed surface of the section  
75 B, being uppermost, is written upon with a pencil, with the effect before described.

It will be seen that with one blank sheet, and with a single sheet of carbon-paper, two duplicates of the written matter are produced,  
80 whereas two detached sheets of copying-paper have heretofore been necessary to get the same number of copies. The old method is objectionable on account of the number of sheets to be adjusted and cared for, and to the  
85 shipping-clerk, who carries the sheets from place to place, the handling and care of the sheets is a source of great annoyance.

Having fully described our invention, what we claim as new, and desire to secure by Letters  
90 Patent, is—

An improved blank for manifold copying, consisting of a sheet of paper divided into three equal sections by lines of perforations, and printed in the same manner herein shown and described, whereby the sections may be folded upon each other with a single sheet of copying-paper, in such manner that matter written upon one section will be reproduced upon the other two, substantially as set forth.

In testimony whereof we have signed this specification in the presence of two subscribing witnesses.

HEMAN G. BARLOW.  
JOHN B. BARLOW.

Witnesses:-

CHAS. M. WILSON,  
JOHN E. MORE.

**Defendant's Exhibit No. 2.**

[Endorsed]: No. 14,772. In U. S. Circuit Court, Northern District of California. Levison vs. Kitchen Jr. Co. Defts. Exhibit No. 2. E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Defendant's Exhibit No. 2. Received Sep. 8, 1910. F. D. Monckton, Clerk.



No. 612,197.

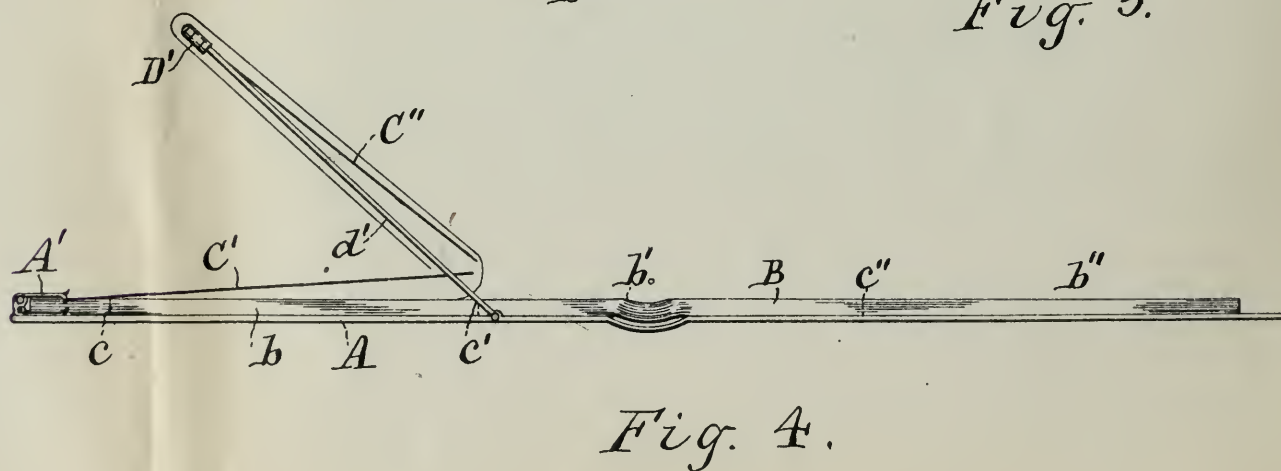
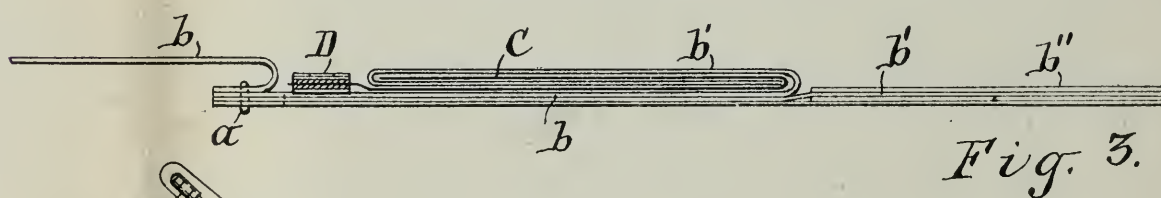
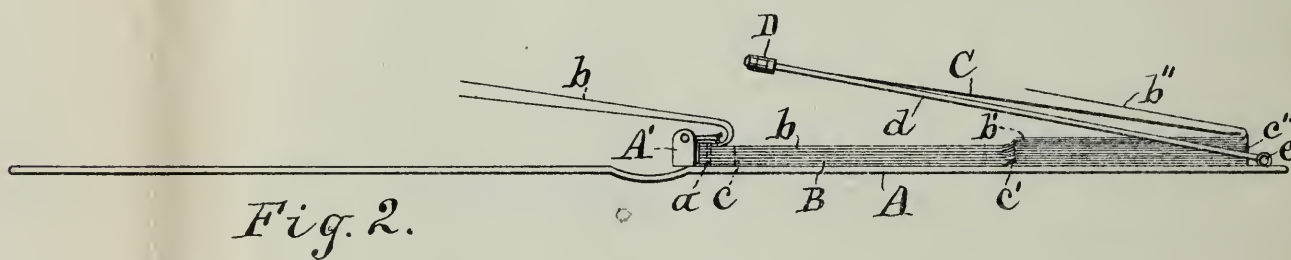
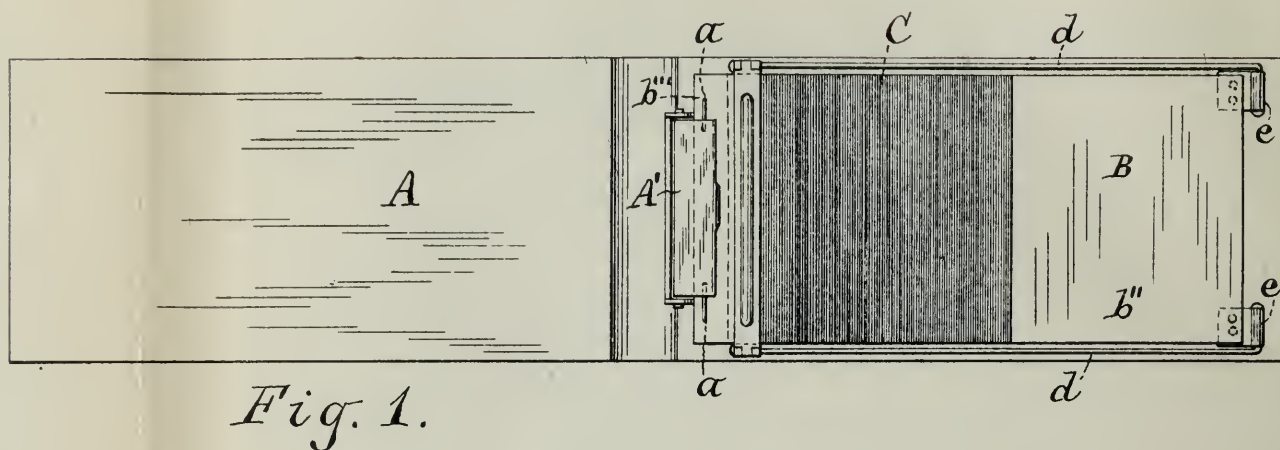
Patented Oct. 11, 1898.

G. E. DOUGHTY.

MANIFOLD BOOK.

(Application filed Sept. 17, 1897.)

(No Model.)



Witnesses.

Mark W. Dewey  
Alvin D. Allen

Inventor.

George E. Doughty  
By C. H. Duell  
his Attorney.



# UNITED STATES PATENT OFFICE.

GEORGE E. DOUGHTY, OF NEW YORK, N. Y., ASSIGNOR TO THE CARTER-CRUME COMPANY, OF NIAGARA FALLS, NEW YORK.

## MANIFOLD-BOOK.

SPECIFICATION forming part of Letters Patent No. 612,197, dated October 11, 1898.

Application filed September 17, 1897. Serial No. 652,002. (No model.)

*To all whom it may concern:*

Be it known that I, GEORGE E. DOUGHTY, of New York, (Jamaica,) in the county of Queens, in the State of New York, have invented new and useful Improvements in Manifold-Books, of which the following, taken in connection with the accompanying drawings, is a full, clear, and exact description.

My invention relates to improvements in manifold sales-books; and the object is to provide a triplicate book that will be simple and convenient.

To this end my invention consists in the combination, with the back or cover, of full leaves divided into three sections, or leaves adapted to be folded upon each other and separated when desired, bound together at one end and secured to the cover, a carbon-sheet, arms pivoted to the cover, and a clamp on the free ends of the arms attached to the carbon-sheet; and my invention consists in certain other combinations of parts herein-after described, and specifically set forth in the claims.

In the drawings hereto annexed and forming a part of this specification, Figure 1 is a plan view of a complete book when open embodying my invention. Fig. 2 shows an edge view of the same after several of the leaves have been used and sections detached therefrom. Fig. 3 shows an enlarged edge view of the same book without the cover and with the carbon-sheet clamp in section, and Fig. 4 is an edge view of a modification wherein the carbon-sheet is divided into two parts and one of said parts is held by the clamp that secures the leaves to the cover.

Any suitable printed matter or ruling may be placed on the leaves.

Referring specifically to the drawings, A is the back or cover of the book, having a hinge in the middle and a suitable clamp A' for holding the leaves in the cover, either at one side of the hinge or at a free end of the cover, as shown in Fig. 4 of the drawings.

B indicates the pile of full leaves, secured together by staples *a a* at one end and by the same end secured to the cover by the clamp A'. In the first two figures of the drawings the clamp A' is secured to the inner side of

The bound ends of the leaves are held in this clamp with their free ends extending to the right, but with their end sections *b''* turned inward and lying on their respective central sections *b'*.

The full leaves B are each divided into three sections *b*, *b'*, and *b''* and a stub *b'''* by perforated lines *c*, *c'*, and *c''*, and these sections, when folded on the said lines with the carbon-sheet inclosed, form at one writing three distinct copies, *b'* being the original, *b''* the duplicate, and *b* the triplicate, which latter can be retained in the book or removed, as desired.

The carbon-sheet C is as wide as the leaves, as long as two of the sections, and is carbonized on both sides. Said carbon-sheet is held by a clamp D at one end, the clamp being mounted on the free ends of arms *d d*, turning in eyes *e e*, secured to the inner side of the cover, near its right-hand edge.

In using the form of book shown in the first three figures of the drawings the end section *b''* of the uppermost leaf is raised to allow the end of the carbon-sheet C to drop onto the underlying section, as shown in Figs. 1 and 2, and then the sections *b''* and *b'*, together with the end of the carbon-sheet, is folded on the perforated line *c'* over upon the other section *b*, as indicated in Fig. 3 of the drawings. Any writing that is made upon the central section *b'* will be copied on the other two sections of the leaf. After the writing one or all of the sections written upon may be torn out, leaving the next full leaf in position for a like manipulation.

The leaves B in Fig. 4 are provided with the same perforated lines, or lines that are broken to allow the leaves to be separated easily, and the same number of sections as the leaves in the other figures; but the end sections are not turned in before they are used, and the bound edges of the leaves are secured to the cover A by the clamp A', located at the left-hand edge of the cover. The carbon-sheet is divided into two parts C' and C'' in this book, one part, C', being held by the clamp A' on the top of the section *b* and the other part, C'', being held by a swinging clamp D' to lie between the sections *b'* and *b''* when folded. The clamp A' being secured at the

eyes for the arms *d' d'* to turn in are secured to the left-hand side of the cover.

It will be noticed that although the carbon-sheet is divided in the modified form of book the leaves are folded in exactly the same manner before the writing is done and also that the central section is the original.

When the sections *b b*, &c., are retained in the book for further reference, they are turned over to the left, so that entries are turned face downward and are not exposed to view.

Having described my invention, what I claim as new, and desire to secure by Letters Patent, is—

1. In a manifold-book, the combination of a pile of leaves of equal size secured together at one end, lines of perforations extending across the leaves dividing each into three sections and a stub at the bound end, the end section of each leaf folded over upon its central section, said central section with the end section being adapted to be folded over together upon the bound-end section, a carbon-sheet extending from the fold of the end section to the stub, a cover secured to the stubs, arms pivoted to the cover, and a clamp on the free ends of the arms attached to the carbon-sheet, as set forth.

2. In a manifold-book, the combination with the cover, of leaves divided into three sections of substantially equal size by parallel perforated lines, said leaves being adapted to be folded and separated on said lines, a clamp secured to the cover to hold one end of the

leaves, a carbon-sheet, and a swinging clamp pivoted to the cover and secured to one end of the carbon-sheet, substantially as described and shown.

3. In a manifold-book, the combination with the cover provided with a hinge in its center, of a pile of leaves each leaf divided into three sections of substantially the same length, stubs at one end bound together, a clamp secured to the cover near the hinge for holding the stubs, a carbon-sheet adapted to be folded between the sections, arms pivoted to the inner side of the cover a distance from said clamp, and a clamp on the free ends of the arms attached to the carbon-sheet and adapted to lie near the first-mentioned clamp, substantially as described and shown.

4. In a manifold-book, the combination with the cover provided with a hinge in its center, of a pile of leaves divided into three sections, stubs at one end of the pile bound together, a clamp secured to the cover near the hinge for holding the stubs, a carbon-sheet double the length of one section of a leaf, arms pivoted to the inner side of the cover at one end, and a clamp on the free ends of the arms attached to one side of the carbon-sheet, substantially as described and shown.

In testimony whereof I have hereunto signed my name.

GEORGE E. DOUGHTY. [L. s.]

Witnesses:

W. A. WARNOCK,  
JOHN L. GWYDIN.



**Defendant's Exhibit No. 3.**

[Endorsed]: No. 14,772. In U. S. Circuit Court, Northern District of California. Levison vs. Kitchen Jr. Co. Defts. Exhibit No. 3. E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Defendant's Exhibit No. 3. Received Sep. 8, 1910. F. D. Monckton, Clerk.

No. 634,438.

Patented Oct. 10, 1899.

A. ABRAHAM.  
MANIFOLDING SALES BOOK.

(Application filed May 4, 1899.)

(No Model.)

Fig. 1.

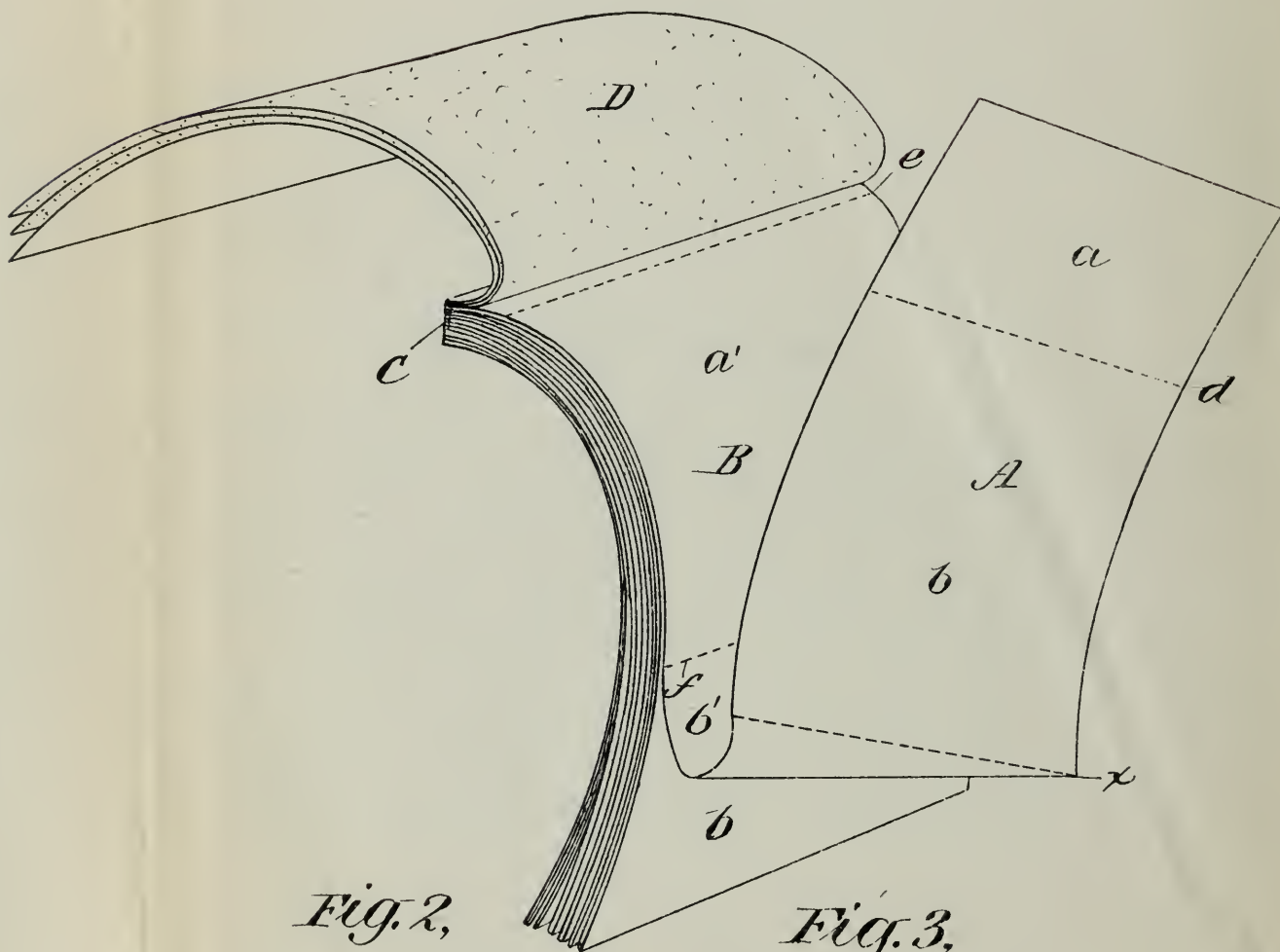


Fig. 2.

Fig. 3.

a	Name		h
d	A—B—No New York		h
b			h
A			h
c			h
WITNESSES:			g
NAME			
ADDRESS			

a'	Name		h'
d'	A—B—No New York		h'
b'			h'
A'			h'
c'			h'
INVENTOR			g'
Abraham Abraham			
BY			g'
Kenyon Kenyon			
ATTORNEYS			

*Edwin Seger*

*Kenyon Kenyon*  
ATTORNEYS



ABRAHAM ABRAHAM, OF NEW YORK, N. Y., ASSIGNOR TO ABRAHAM & STRAUSS, OF SAME PLACE.

## MANIFOLDING SALES-BOOK.

SPECIFICATION forming part of Letters Patent No. 634,438, dated October 10, 1899.

Application filed May 4, 1899. Serial No. 715,561. (No model.)

*To all whom it may concern:*

Be it known that I, ABRAHAM ABRAHAM, a citizen of the United States, and a resident of New York, (Brooklyn,) in the county of Kings and State of New York, have invented certain new and useful Improvements in Sales-Books, of which the following is a specification.

My invention relates to that class of sales-book in which a leaf of carbon-paper is adapted to be inserted between two adjacent leaves, whereby an original and a carbon copy of the sales-memorandum can be produced and the sheets be detached from the book and from each other, so that the customer may receive one record and another be retained at the store.

My improvements consist generally in dividing each half of a folded sheet of a manifold sales-book into three sections, the top and bottom sections having provision for the name and address of the purchaser and the intermediate section having provision for memorandum of sale and amount of same and the bottom section also having provision for the amount of sale and said sheet having lines of detachment between the top and intermediate sections of the upper half and between the bottom and intermediate sections of the lower half.

My improvements also consist in certain other features and details, as more particularly hereinafter described.

In the accompanying drawings, Figure 1 illustrates in perspective a sales-book embodying my invention and showing the two parts of the duplicate sheet and with the carbon-paper thrown back. Figs. 2 and 3 illustrate plan views of the upper and lower parts, respectively, of the duplicate sheet and each figure showing such part detached from the other part.

Similar letters represent like parts in all figures.

The sales-book, as shown in the above figures, is composed of folded sheets composed of the upper part A and the lower part B. The lower part B is secured to the back C or binding, the part A is separated from said back, and the two parts A and B are united at their lower ends, but at said ends are joined

by perforations *x* or otherwise, so that they may be readily separated from each other. The lower part B is also similarly arranged near its upper end, so that it may be readily separated from the back C.

D is the carbon-leaf which is secured to the back C and which is adapted to be inserted under the part A and between the two parts A and B of the double sheet when the book is to be used.

The part A is divided into three sections *a*, *b*, and *c*. Section *a* has provision for the name and address of the purchaser, section *b* has provision for the items of sale or sales, the amounts of same, and the total amount of sales to the customer, and the section *c* has provision for the name and address of the purchaser and the total amount of sales to same. The section *a* is at the top of the part A, the section *c* at the bottom, and the section *b* in the middle or between *a* and *c*. The part B is divided into three sections *a'*, *b'*, and *c'* and occupying similar positions on said part. On part A sections *a* and *b* are separated by a line *d* of perforations or other similar provision, by which section *a* may be readily and instantly detached from sections *b* and *c*. Part B has also a detaching-line *e*, similar to line *d*, between section *a'* and the back C, and *f* is another detaching-line separating sections *a'* and *b'* from section *c'*.

The entire sheet A B is adapted to be used in the following manner: The salesman or saleswoman upon making a sale of goods that are to be sent to the purchaser's home first inserts the carbon-leaf D under the part A and between the parts A and B, and then writes the purchaser's name and address upon the parts *a* and *c*, the item or items of sale, the amount or amounts in money of each sale, and the total amount in money of all the sales to said purchaser on the part *b*. The total amount in money of all the sales is also written on the part *c*. The writing, as above stated, will be duplicated by the carbon-leaf upon the three sections *a'* *b'* *c'* of the under part B of the duplicate sheet, the writing on the sections *a'*, *b'*, and *c'* corresponding with the writing on the sections *a*, *b*, and *c*, respectively. The sheet A B is then torn from



the back C and separated at the detaching-lines *d*, *f*, and *x*. The section *a* is pasted on the package containing the purchases, the two united sections *c* and *b* both turned in to the bookkeeper, the two united sections *a'* and *b'* are turned over to the purchaser or put in the package, and the section *c'* is turned over to the auditor. The purchaser will thus have a bill or voucher for his purchase or purchases, with the amount or amounts of same, the bookkeeper will also have a similar voucher, and the auditor will also have a voucher containing the name and address of the purchaser and the total amount of his purchase. It will therefore be seen that whenever a sale or sales is or are made to every customer the salesman or saleswoman, by the proper entries on sections *a*, *b*, and *c*, makes out three sets of checks against each other—one to the customer, one to the bookkeeper, and one to the auditor.

Provision is made at *g* and *g'* on sections *c* and *c'*, respectively, for a number of a purchaser's shopping-card, so that if a customer has such a card and does not pay cash for his purchases the number of his card may be written on *g* and duplicated on *g'* on the auditor's voucher *c'*. The two sections *a* and *a'* also have provision at *h* and *h'*, respectively, for the name of the mercantile establishment selling the goods, so that there will be an advertisement of said establishment both on the section which is pasted on the package and on the purchaser's bill or voucher.

What I claim as new, and desire to secure by Letters Patent, is—

1. In a manifold-book, the combination with a folded sheet, the upper half of which is disconnected from the binding and each half being divided into three sections, the top and bottom sections having provision for the name and address of the purchaser, and the intermediate section having provision for memorandum of sale and amount of

same, and the bottom section also having provision for the amount of sale, and said sheet having lines of detachment between the top and intermediate sections of the upper half and between the bottom and intermediate sections of the lower half, all as set forth.

2. In a manifold-book, the combination of a folded sheet the upper half of which is disconnected from the binding, a carbon-leaf bound into the book and adapted for insertion under the upper half of the folded sheet, each half of said sheet being divided into three sections, the top and bottom sections having provision for the name and address of the purchaser, and the intermediate section having provision for memorandum of sale and amount of same, and the bottom section also having provision for the amount of sale, and said sheet having lines of detachment between the top and intermediate sections of the upper half and between the bottom and intermediate sections of the lower half, all as set forth.

3. A manifold-book composed of folded sheets, the upper half of each of which sheets is disconnected from the binding, and each half being divided into three sections, the top and bottom sections having provision for the name and address of the purchaser, and the intermediate section having provision for memorandum of sale and amount of same, and the bottom section also having provision for the amount of sale, and said sheet having lines of detachment between the top and intermediate sections of the upper half and between the bottom and intermediate sections of the lower half, all as set forth.

In testimony whereof I have signed my name to this specification in the presence of two subscribing witnesses.

ABRAHAM ABRAHAM.

Witnesses:

HENRY WILHELM,  
ARTHUR HENRY BEEDLE.

**Defendant's Exhibit No. 4.**

[Endorsed]: No. 14,772. In U. S. Circuit Court, Northern District of California. Levison vs. Kitchen Jr. Co. Lefts. Exhibit No. 4. E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

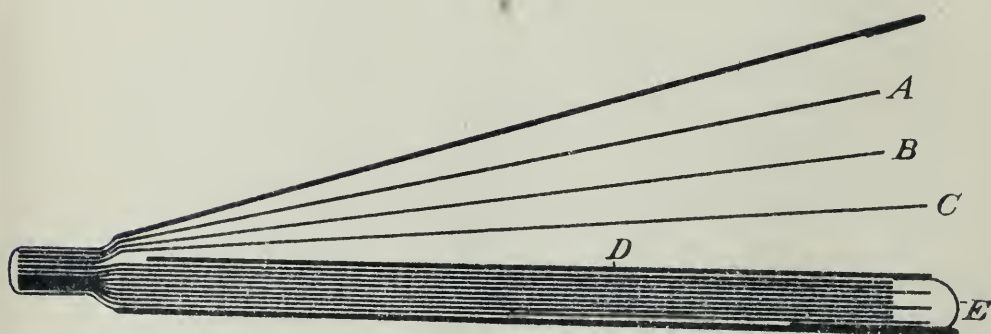
Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Defendant's Exhibit No. 4. Received Sep. 8, 1910. F. D. Monckton, Clerk.

(No Model.)

H. P. BROWN.  
DUPLICATING PAD OR SHEET.

No. 589,372.

Patented Aug. 31, 1897.



Witnesses,  
J. H. Morse  
C. A. Brandau

Inventor,  
Horace P. Brown  
By Duvey & Co.  
attys



## UNITED STATES PATENT OFFICE.

HORACE P. BROWN, OF SAN FRANCISCO, CALIFORNIA.

## DUPLICATING PAD OR SHEET.

SPECIFICATION forming part of Letters Patent No. 589,372, dated August 31, 1897.

Application filed December 23, 1896. Serial No. 616,796. (No specimens.)

*To all whom it may concern:*

Be it known that I, HORACE P. BROWN, a citizen of the United States, residing in the city and county of San Francisco, State of California, have invented an Improvement in Duplicating Pads or Sheets; and I hereby declare the following to be a full, clear, and exact description of the same.

My invention relates to an improvement in the duplication or manifolding of marks or entries upon separate sheets, such as shipping-receipts, cash memoranda, pads, and sheets generally where any repetition of the mark or entry is required.

It consists, essentially, of the application by printing or other means to one surface of a sheet of a non-drying transparent ink or other suitable material, which serves to duplicate upon a following sheet any entry or mark made upon the face of the first-named sheet or of sheets anterior thereto, and in certain details of construction and mounting, which will be more fully explained by reference to the accompanying drawing, in which the figure illustrates my invention as applied to a receipt-book.

In the method now generally employed for making duplicate or triplicate receipts, cash or memorandum tags, where more than one copy is desired, it is customary to employ independent sheets of carbon-paper, which are laid between the upper and lower sheets, so that when a mark or entry is made upon the upper sheet it will be transferred by means of the carbon surface of the next sheet below and this again to a third sheet by the use of a second sheet of carbon. These carbon-sheets are necessarily loose and changeable from one part to another of the book, pad, or other record for the purpose of each new entry and are somewhat expensive to produce.

In my invention I print or apply upon the back of a sheet by means of any printing-press or other suitable means a surface of non-drying and transparent ink, which when superposed over another sheet will transfer any entries or marks made upon the front side of said sheet or upon any sheet anterior thereto to a subsequent sheet, which may be placed below the one having the above-described surface. This surface may be a uniform tint or made in "half-tone," so called, or

in any other suitable manner. This ink being transparent will not in any way interfere with any printed matter which it may be desired to have upon the back of the sheet, as in the case of conditions, &c., which are printed upon shipping-receipts and other like documents.

The word "ink" is here employed to designate any suitable substance or preparation which may be applied and used, as herein described, and is to be so considered throughout this specification.

This invention is especially valuable because of the rapidity and cheapness with which the sheets can be prepared, the expense being very much less than that of preparing the ordinary carbon-sheets or other similar means used to make manifold work.

In the accompanying drawing I have illustrated my invention as applied to a system of shipping-receipts which is usually employed in duplicate or triplicate. In this case the sheets A, B, and C are respectively the shipping-order, the duplicate shipping-receipt, and the original shipping-receipt. These are bound in series of three into a book of any suitable shape or size, the sheets A and C having lines of perforation along the back edge close to the binding, so that they can be easily removed. The first sheet consists of the shipping-order and the second the duplicate shipping-receipt. Upon the back of each of these sheets is imprinted a surface of a transparent ink, which may be made of any suitable or desired color. In the present case I have used an ink of such a color and character that the conditions which are usually printed upon the backs of such receipts can be printed in black ink thereon and can easily be read through the transparent surface which has been applied thereto. These first two sheets having this imprinted or prepared surface are slightly shorter than the sheet C, as shown, so that each series of three is easily separated and identified by reason of the front edge of the sheet C projecting a short distance beyond the edges of the other two.

The entry being made upon the first sheet A with pencil or other marking implement the marks will be transferred, respectively, to sheets B and C. The first, constituting the shipping-order, may then be removed and



delivered to the shipper and the third, which is the original shipping-receipt, is also removed in the same manner, leaving the second or duplicate shipping-receipt in the book.

5 The next series is used in the same manner, and so on through the book.

10 In order to prevent the marks being transmitted beyond the desired number of sheets, the third sheet C will have no transferring-surface printed upon it. Consequently the transfer is limited to the sheet subsequent to the last one having this surface upon it.

For convenience in writing and to provide a properly hard surface to insure the clear  
15 marking through the various sheets I employ a flap D, of hard pasteboard or other suitable material, which is loosely hinged to the front edge of the rearmost cover of the book, as shown at E, so that it may be folded over  
20 the leaves of the book which are behind the ones to be written on, and these latter leaves, as A, B, and C, are then laid down upon this surface, so that the marking or writing is readily transferred as far as desired. This  
25 flap will also serve to prevent a transfer of the mark beyond itself if introduced behind sheets which have the transferring-surface upon them.

It will be manifest that this transfer-surface may be imprinted or prepared directly  
30 upon the sheets, either bound or unbound, which form the shipping receipts and orders, or cash or memorandum tags or pads of any description, or it may be imprinted or applied upon intermediate sheets which are secured in rotation with those upon which the  
35 marks are to be placed, the essential feature of the invention consisting in applying the duplicating or manifolding surface by printing upon one side of a sheet.

40 Having thus described my invention, what I claim as new, and desire to secure by Letters Patent, is—

1. The improvement in manifolding consisting of sheets having applied upon the

printed backs thereof a surface of non-drying transparent transferable ink.

2. The improvement in manifolding for sheets, pads, or books consisting of sheets arranged in series having applied upon the  
50 printed backs thereof a surface of non-drying transparent transferable ink and a device for separating said sheets into groups of as many as the number of copies desired and preventing a further imprinting upon subsequent sheets.

3. The improvement in manifolding consisting of sheets bound together in series of as many as there are desired copies having imprinted upon the printed backs of those  
60 sheets from which copies are to be transferred, a non-drying transferable ink, perforations or means for separating the sheets from the binding being formed upon those sheets which are to be removed, and the final sheet of each  
65 group having its edge projecting beyond the previous one so as to separate the groups.

4. The improvement in manifolding-sheets bound into books consisting of a surface of non-drying transferable and transparent ink  
70 imprinted upon the printed backs of sheets through which the transfer is to be made, said sheets being bound in series of as many as there are copies required and with the front edge of the final sheet projecting slightly beyond the anterior ones to separate the groups,  
75 lines of perforations formed adjacent to the binding along those sheets which are to be removed from the book, and an impenetrable flap or surface loosely hinged to the front  
80 edge of the book and adapted to be folded between the series of sheets to prevent a transfer beyond the particular series required.

In witness whereof I have hereunto set my hand.

HORACE P. BROWN.

Witnesses:

S. H. NOURSE,  
GEO. H. STRONG.

**Defendant's Exhibit No. 5.**

[Endorsed]: No. 14,772. In U. S. Circuit Court, Northern District of California. Levison vs. Kitchen Jr. Co. Defts. Exhibit No. 5. E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Defendant's Exhibit No. 5. Received Sep. 8, 1910. F. D. Monckton, Clerk.



No. 694,103.

Patented Feb. 25, 1902.

A. LEVISON.  
MANIFOLD BOOK.  
(Application filed Dec. 4, 1901.)

(No Model.)

Fig. 1.

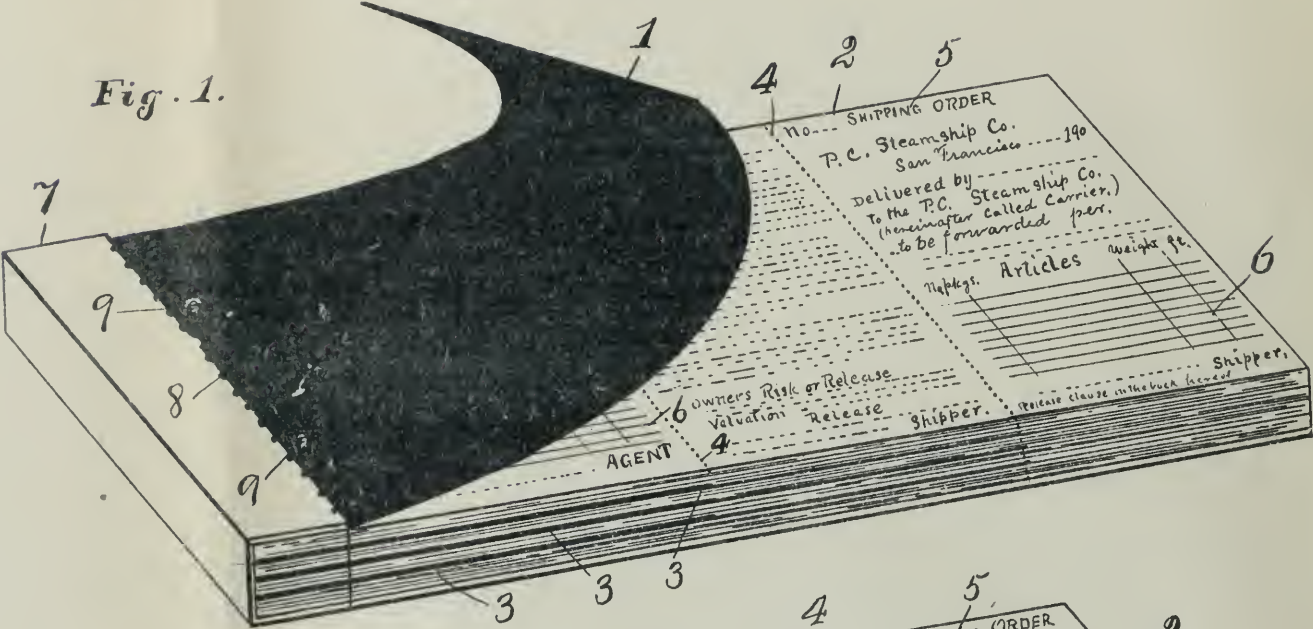


Fig. 2.

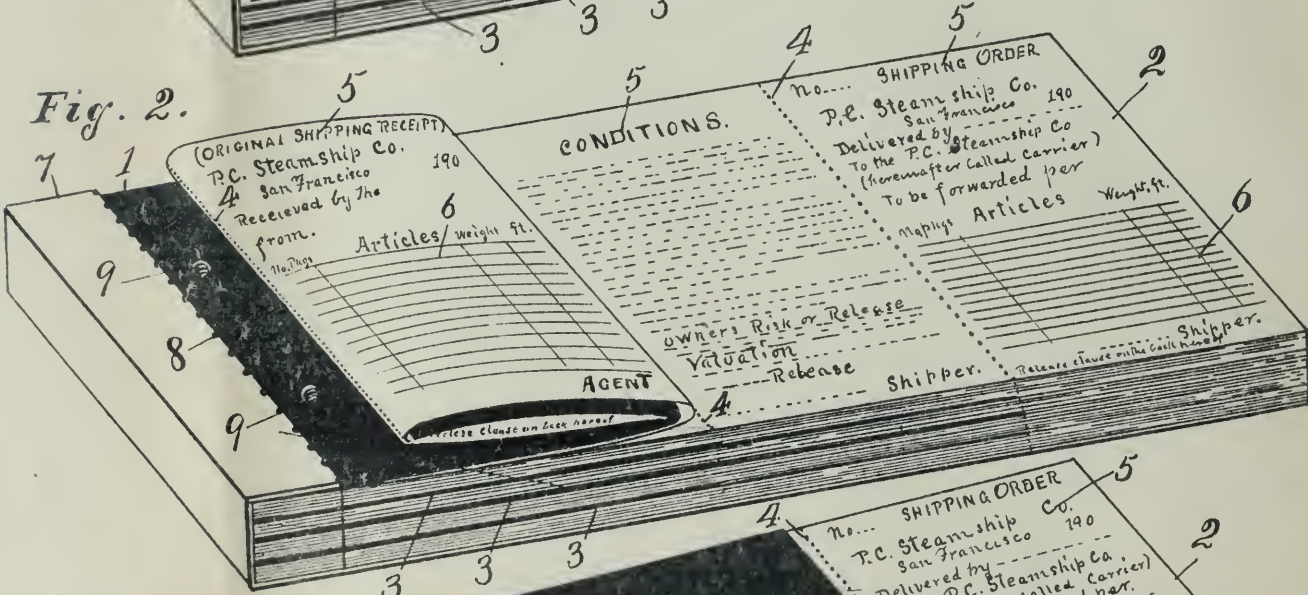
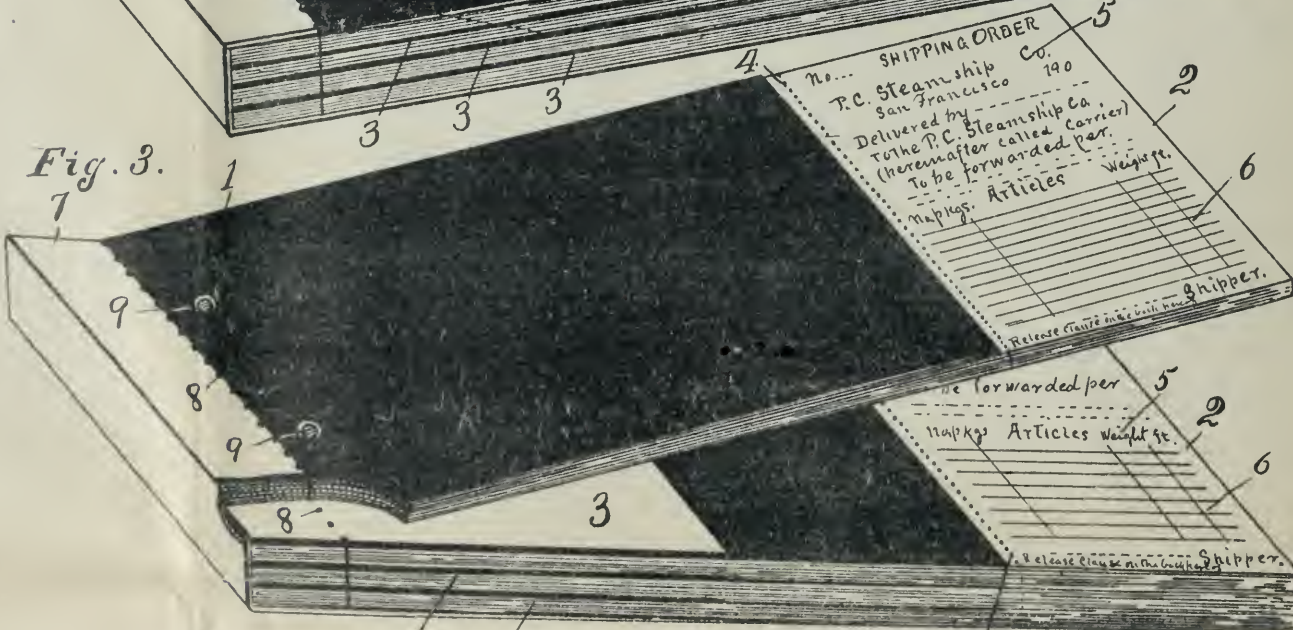


Fig. 3.



WITNESSES:

K. Lockwood Nevins  
Lucelia Downing.

INVENTOR.  
Alexander Levison

BY Francis W. Wright.  
ATTORNEY.



# UNITED STATES PATENT OFFICE.

ALEXANDER LEVISON, OF SAN FRANCISCO, CALIFORNIA.

## MANIFOLD-BOOK.

SPECIFICATION forming part of Letters Patent No. 694,103, dated February 25, 1902.

Application filed December 4, 1901. Serial No. 84,682. (No model.)

*To all whom it may concern:*

Be it known that I, ALEXANDER LEVISON, a citizen of the United States, residing at San Francisco, in the county of San Francisco and State of California, have invented certain new and useful Improvements in Manifold-Books, of which the following is a specification.

My invention relates to an improved manifold receipt and record book for mercantile, railway, express, or other business uses.

The object of my invention is to provide a book of this character which shall be convenient in use, economical in the number of carbons required, which shall give secure protection against alterations and forgeries, and the sheets of which can be readily and conveniently placed on record after the impression has been taken.

My invention therefore resides in the novel construction, combination, and arrangement of parts for the above ends, hereinafter fully specified, and particularly pointed out in the claims.

In the accompanying drawings, Figure 1 is a perspective view of one of my improved manifold-books before use. Fig. 2 is a similar view showing the position when folded for use; and Fig. 3 is a perspective view of the book, a number of sheets being turned up and the book being broken away to show a card backing and carbon-paper.

Referring to the drawings, it will be seen that my improved manifold-book is formed in sections, each section comprising in order, first, a carbon-sheet 1, of about two-thirds the width of the book, then, below said carbon-sheet 1, a number of sheets 2, of ordinary paper, the full width of the book, then a sheet 3 of hard thick cardboard. Each record-sheet is divided into three parts by vertical lines of perforations 4, said parts having suitable printed matter 5 and blank lines 6, whereon to inscribe the desired record. The carbon-sheets 1 are of sufficient width to extend over two of said parts, while the cardboard backing 3 occupies the width of the inner parts only of the sheets above it. The record-sheets and the cardboard backings are attached to stubs 7 along lines of perforations 8, so that they can be readily detached

from said stubs, and said stubs and the edges of the carbon-sheets are all bound together to form a book.

In use the record-sheet is first folded on the outer line of perforations 4, so as to cover about one-half of the carbon-sheet, and it is then folded in the same direction on the second line of perforations, so that the carbon is now folded inside of the record-sheet, as shown in Fig. 2. The record will now be written upon what was the back of the middle portion of the sheet when it was flat and unfolded, which will now, however, have come to the top. The carbon-sheet is double or carbonized on both sides, so that a copy of the record will be made upon each of the two terminal parts of the sheet. Also an inverted or backhanded copy of the writing will be formed upon the back of each part, except the inner one. This latter feature gives additional security against subsequent alteration of the record, since it is difficult to erase and rewrite both the original and the reverse copy.

The use of the cardboard backing is to provide a hard substance to form a smooth writing-surface and also to protect the carbon paper and sheets below it from receiving an impression written upon a sheet above said backing. The inner edge of the inner part of the record-sheet is punched with two holes 9 to facilitate the filing of said part.

The advantages of the above construction are that any kind of paper can be used for the record-sheets, and the construction does not require any transparent paper. The carbon naturally falls into the position for use for the next record-sheet when one record-sheet has been removed, and the record-sheet is very readily folded in the desired manner, the fold being twice in the same direction. The device is economical of carbon-paper.

The cardboard backings are an important feature of my invention, since they permit a large number of sheets to be bound into a book with a small number of carbons without any danger of transmitting an impression from one sheet to another sheet. They are readily removable by means of the lines of perforations when all the sheets above them have been used.

I claim—

5 A manifold-book composed of sections, each section comprising in order a double carbon-sheet, a plurality of recording-sheets, and a  
10 cardboard backing, the record-sheets being divided into three separable parts, the carbon-sheets extending the width of two of said parts, and the cardboard backing extending the width of one of said parts, said recording-sheets and backings having stubs to which they are attached along lines of perforations,

said stubs and the edges of the carbon-sheets being all bound together to form a book, substantially as described.

In witness whereof I have hereunto set my hand in the presence of two subscribing witnesses.

A. LEVISON.

Witnesses:

FRANCIS M. WRIGHT,  
CECELIA POWNING.

**Defendant's Exhibit No. 6.**

[Endorsed]: No. 14,772. In U. S. Circuit Court, Northern District of California. Levison vs. Kitchen Jr. Co. Defts. Exhibit No. 6. E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Defendant's Exhibit No. 6. Received Sep. 8, 1910. F. D. Monckton, Clerk.



E. J. PERRY.

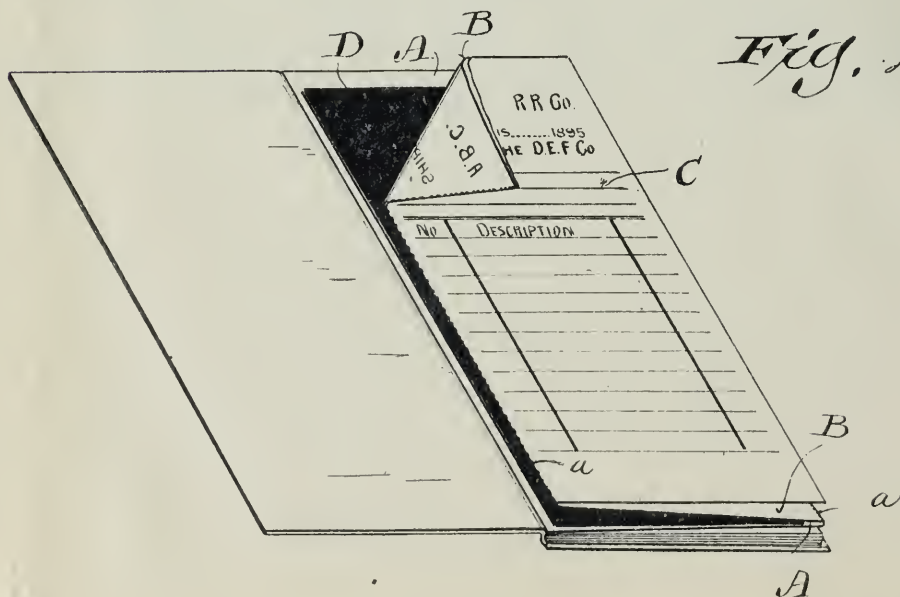
CARBON COPYING MANIFOLD SHEET OR BOOK.

No. 11,547.

Reissued June 9, 1896.

*Fig. 1.*

<i>A.B.C.</i> <i>R.R.CO.</i> WIS.....1895 SHIPPED BY <i>THE D.E.F.CO.</i>		<i>Q.Q.A.A.</i> <i>J.B.A</i> 2881.....21W SHIPPED BY <i>THE D.E.F.CO.</i>		<i>A.B.C.</i> <i>R.R.CO.</i> WIS.....1895 SHIPPED BY <i>THE D.E.F.CO.</i>																																											
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*Fig. 2.*

Witnesses:  
 Geo W Loney  
 N. E. Oliphant

Inventor  
 Ernest J. Perry  
 By H. G. Underwood  
 Attorney



# UNITED STATES PATENT OFFICE.

ERNEST J. PERRY, OF FOND DU LAC, WISCONSIN.

## CARBON COPYING MANIFOLD SHEET OR BOOK.

SPECIFICATION forming part of Reissued Letters Patent No. 11,547, dated June 9, 1896.

Original No. 541,498, dated June 25, 1895. Application for reissue filed August 3, 1895. Serial No. 558,164.

*To all whom it may concern:*

Be it known that I, ERNEST J. PERRY, a citizen of the United States, and a resident of Fond du Lac, in the county of Fond du Lac and State of Wisconsin, have invented certain new and useful Improvements in Carbon Copying Manifold Sheets or Books; and I do hereby declare that the following is a full, clear, and exact description thereof.

My invention relates especially to manifold receipt and record books for mercantile, railway, express, and other business uses; and it consists in certain peculiar and novel features of construction and arrangement, as hereinafter fully set forth, and subsequently claimed.

In the drawings, Figure 1 is a plan view of a single sheet embodying one form of my present invention. Fig. 2 is a perspective view of a book formed of a number of said sheets bound together and illustrating the manner of use.

The object of my present invention is the production of a manifold-copying sheet or book of such sheets, so constructed that by the use of a single sheet of carbon-paper interposed between the folds of said sheet a plurality of impressions may be obtained from a single writing, one of which will be upon the portion of said sheet designed to be retained as a permanent record and the balance upon the detachable remainder of said sheet; and a further object of my said invention is to cheapen the cost of manufacturing books and sheets of this general nature.

Referring to the drawings, in Fig. 1 I show the triplicate form of one of my improved sheets, composed of thin transparent paper, divided by rows of perforations or indentations *a a* into three practically equal portions A B C, the parts B and C being of exactly the same width and the part A only differing therefrom by the added width at the left necessary for binding the same into a book of such sheets when desired. These sheets are all printed on the same side, parts A and C being exact duplicates and part B differing therefrom only in that the impression is the reverse from that on the other parts. This is accomplished in this manner: The matter that appears on part A, for example, is set up in the ordinary manner, and from an im-

pression of this matter a "process-block" is obtained (the details of this process forming no part of my present invention) which will print the same matter in an exactly reversed condition. One or more electroblocks of the said original matter are then made in the ordinary manner, it being preferable to make two such blocks, so as not to use the type itself in printing the sheets. The three blocks are then put in a suitable chase with the one that is to make the negative impression between the two that make the positive impressions and spaced an exactly equal distance apart, and then the sheets can be printed in the ordinary manner, a single impression to each sheet being all that is required. These sheets may be used separately or bound into a book, either in the pad or block form or by stitching, as preferred.

In using this form of my device a sheet of carbon D (carbonized on both sides) is placed above the impression on the part A and then the part B is folded down over the same, so that each face of the prepared carbon-sheet is next the printed side of the said parts A and B, and the part C is folded down upon the part B, so that the unprinted surfaces of the parts B C are in contact, and then, with a sharp hard lead-pencil or pen, the date, address, and description of goods, or whatever the desired inscription may be, are written upon the printed surface of the part C and immediately marked thereby upon the printed surfaces of the parts A and B, appearing backward upon the part B and in proper order upon the part A. The parts B and C are then separately detached, as is common in manifold shipping-books and the like, the part A remaining as a permanent record. By reason of the thin transparent paper of which the sheets are made the entire inscription both printed and written will show clearly through the part B from the plain side thereof.

By the use of my invention I avoid the necessity of printing the sheets upon opposite sides thereof, thereby effecting a great saving in the cost of manufacture and am enabled to obtain perfect triplicate copies with the use of a single sheet of carbon-paper.

It is obvious that if desired the described central part B may be printed from specially-

made reversed type, and that all the parts of my sheets may be printed directly from type, though, as stated, it is usually preferred to print from electro or process blocks.

5 Having thus described my invention, what I claim as new, and desire to secure by Letters Patent, is—

10 1. A carbon copying manifold sheet consisting of a strip of thin transparent paper divided by transverse perforations or indentations into a plurality of parts, all printed upon the same side and all of said parts bearing the same inscription, but said inscription upon one of said parts appearing in a reversed condition, substantially as set forth.

15 2. A carbon copying manifold sheet consisting of a strip of thin transparent paper, divided into three practically equal parts divided by transverse rows of perforations or indentations and all printed upon the same side, the central part of said sheet bearing the same inscription as that upon the outer parts, but appearing in reversed condition, substantially as set forth.

3. A carbon copying manifold book consisting of a series of sheets of thin transparent paper secured together, and each sheet separable by transverse rows of perforations or indentations into three practically equal parts, all printed upon the same side, the central part of each sheet bearing the same inscription as that upon the outer parts thereof, but appearing in reversed condition, and each sheet folded together with the printed surface of the central part next the printed surface of the part secured to the book, and with the unprinted surface of the central part next the unprinted surface of the free outer or end part of the said sheet, substantially as set forth.

40 In testimony that I claim the foregoing I have hereunto set my hand, at Fond du Lac, in the county of Fond du Lac and State of Wisconsin, in the presence of two witnesses.

ERNEST J. PERRY.

Witnesses:

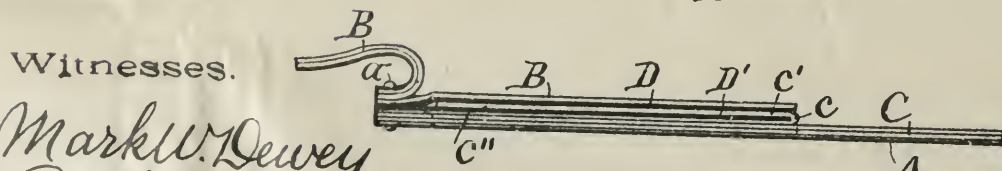
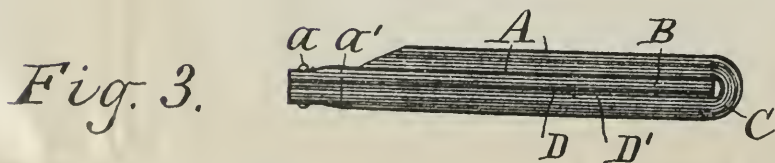
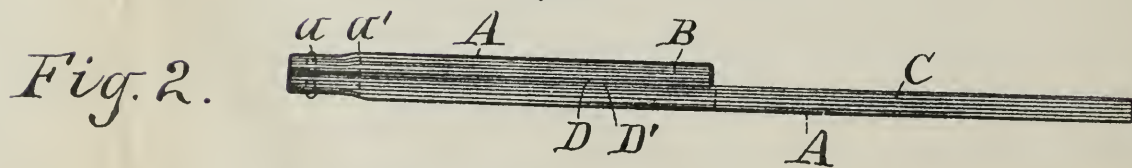
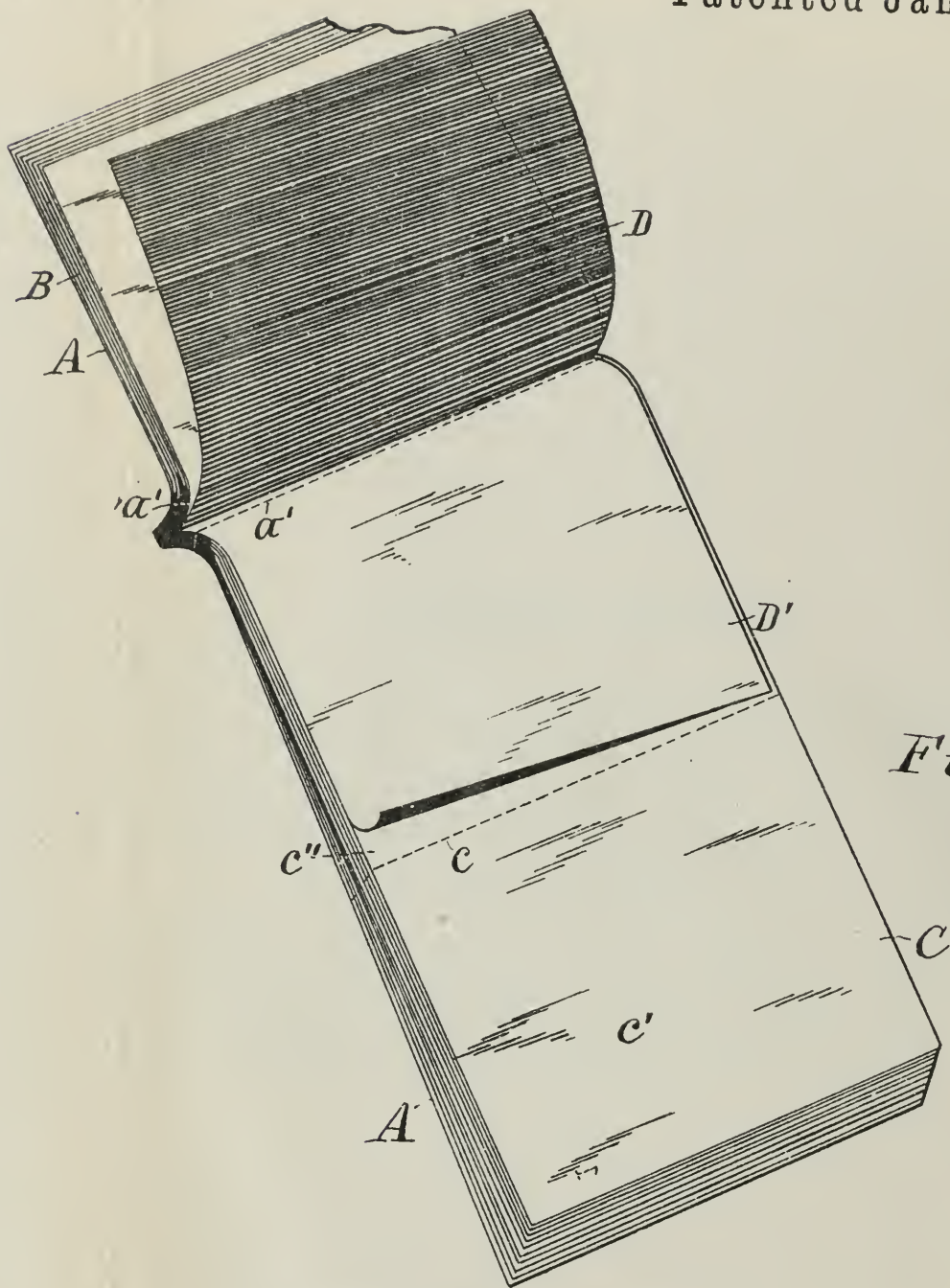
C. J. BREITZMAN,  
CHARLES HOTALING.



**Defendant's Exhibit No. 7.**

[Endorsed]: No. 14,772. In U. S. Circuit Court, Northern District of California. Levison vs. Kitchen Jr. Co. Defts. Exhibit No. 7. E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Defendant's Exhibit No. 7. Received Sep. 8, 1910. F. D. Monckton, Clerk.



Witnesses.

Mark W. Dewey  
O. D. Lerry.

Inventor.

James Bengough  
By C. H. Duell  
his Attorney.



# UNITED STATES PATENT OFFICE.

JAMES BENGOUGH, OF NIAGARA FALLS, NEW YORK, ASSIGNOR TO THE  
CARTER-CRUME COMPANY, OF SAME PLACE.

## MANIFOLD SALES-BOOK.

SPECIFICATION forming part of Letters Patent No. 553,503, dated January 28, 1896.

Application filed October 26, 1895. Serial No. 566,941. (No model.)

*To all whom it may concern:*

Be it known that I, JAMES BENGOUGH, of Niagara Falls, in the county of Niagara, in the State of New York, have invented new and useful Improvements in Manifold Sales-Books, of which the following, taken in connection with the accompanying drawings, is a full, clear, and exact description.

My invention relates to improvements in manifold sales-books, and the object is to provide a more simple and inexpensive book that will be both serviceable and convenient.

To this end my invention consists in the combination, with the back or cover, of a series of single leaves bound together at one edge, a series of double leaves, one half of which are bound together, while the other half are adapted to fold in as fly-leaves, both series of leaves being bound together at the same edge, and a pair of black leaves bound between the said series of leaves, said black leaves being of substantially the same shape and size as the single leaves; and my invention consists in certain other combinations of parts herein-after described, and specifically set forth in the claims.

In the drawings hereto annexed and forming a part of this specification, Figure 1 is a perspective view of the book when open. Fig. 2 shows an edge view of the book when closed, but not folded. Fig. 3 shows the book closed and folded in a position which allows it to be easily inserted and carried in the pocket; and Fig. 4 shows an edge view of a portion of the book with the leaves in a position to be written upon to make an original, a duplicate, and a triplicate.

I have not shown in any of the figures printed matter or a form of ruling on any of the leaves, as that may be made and arranged to suit the customers or sales-people who use the book. I will say, however, although it forms no part of my invention, that I prefer to print and rule only the original or single leaves, having the others blank, with the exception of the numbers, which correspond as usual with the number on the original.

Referring specifically to the drawings, A is the back or cover of the book, which is preferably formed of thicker paper than that of

the leaves and made long enough to extend the entire length of the book on its lower side and half the length on its upper side. The cover folds over the bound edges of the leaves, and all are secured together by several rivets or staples *a*. 55

B indicates a series of narrow or single leaves, which are called the "originals" and which are written upon with the pencil.

C indicates the series of wide or double leaves which constitute the duplicate and triplicate. There are as many double leaves, of course, as there are single leaves. The double leaves are each provided with a line of perforations *c*, extending across their center, which divides them into two parts—viz., the duplicate *c'* and triplicate *c''*. The double leaves are bound together along one side edge of the triplicate *c''*, thus making the duplicate the end portion of the leaf. One side edge of the originals B is bound by the same staples *a* to the double leaves, the two black or carbon leaves D and D' being bound between the two series of leaves. The black leaves are of substantially the same size as the originals, or, in other words, extend to the perforated line *c* in the double leaf. The perforated line *c* allows the duplicate to be easily detached or separated from the triplicate. Another perforated line *a'*, extending across each leaf near the bound edge, allows these leaves to be separated from the book when desired. 60 65 70 75 80

In using the book it is opened first to the position shown in Fig. 2, then to the position shown in Fig. 1—that is, with the originals B and black leaf D thrown back. Then the duplicate *c'* of the double leaf C is folded in over the black leaf D', as shown in Fig. 4, the black leaf D' serving to impress the copy on the triplicate *c''* below it. Then the black leaf D is turned down over the duplicate *c'* to impress it with the characters written upon the original B after the latter is turned down upon the black leaf D, as indicated also in Fig. 4 of the drawings. 85 90 95

It will be obvious that the triplicate, as well as the original, must be detached from the book before the next leaves can be used.

Having described my invention, what I 100

claim as new, and desire to secure by Letters Patent, is—

1. In a manifold salesbook, the combination with the back, of a series of single leaves bound together at one edge, a series of double leaves bound together at one edge, one-half of which are adapted to fold in as fly-leaves, both series of leaves being bound together at the same edge, and a pair of black leaves bound between the said series of leaves, said black leaves being of substantially the same shape and size as the single leaves, substantially as described and shown.

2. In a manifold salesbook, the combination with the back, of a series of single leaves bound together at one side edge, a series of double leaves corresponding in number with the single leaves, and bound together at one edge, one-half of which are adapted to fold in as fly-leaves, both series of leaves being bound together at the same edge, and a pair of black leaves bound together between the two series of leaves, said black leaves being

of the same shape and size as the single leaves, substantially as described and shown.

3. In a manifold salesbook, the combination with the cover, of a series of single leaves bound together at one side edge, a series of double leaves, corresponding in number but double the size of the single leaves, and bound together at one edge, one-half of said double leaves being adapted to fold in as fly-leaves, a perforated line at the fold, both series of leaves being bound together at the same edge, a pair of black leaves bound together and between the two series of leaves, said black leaves being of the same shape and size as the single leaves, and perforated lines extending across all of said leaves near the bound edge, substantially as described and shown.

In testimony whereof I have hereunto signed my name.

JAMES BENGOUGH. [L. S.]

Witnesses:

WALTER GREIG,  
JOHN P. GARBUTT.



**Defendant's Exhibit No. 12.**

[Endorsed]: No. 14,772. In U. S. Circuit Court, Northern District of California. Levison vs. J. Kitchen Jr. Co. Defendant's Exhibit No. 12. E. H. H., Examiner. Filed Nov. 23, 1909. Southard Hoffman, Clerk. By W. B. Maling, Deputy Clerk.

Case No. 1900. U. S. Circuit Court of Appeals for the Ninth Circuit. Defendant's Exhibit No. 12. Received Sep. 8, 1910. F. D. Monckton, Clerk.

911,597.

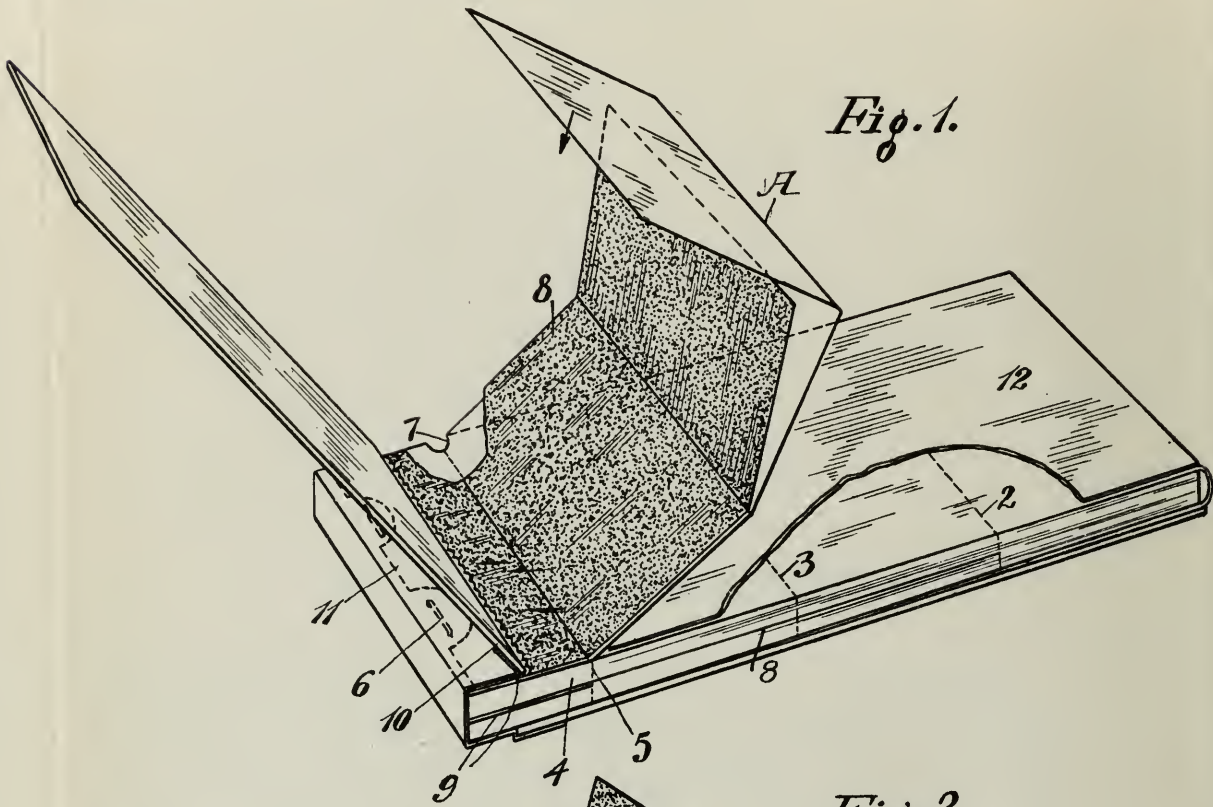
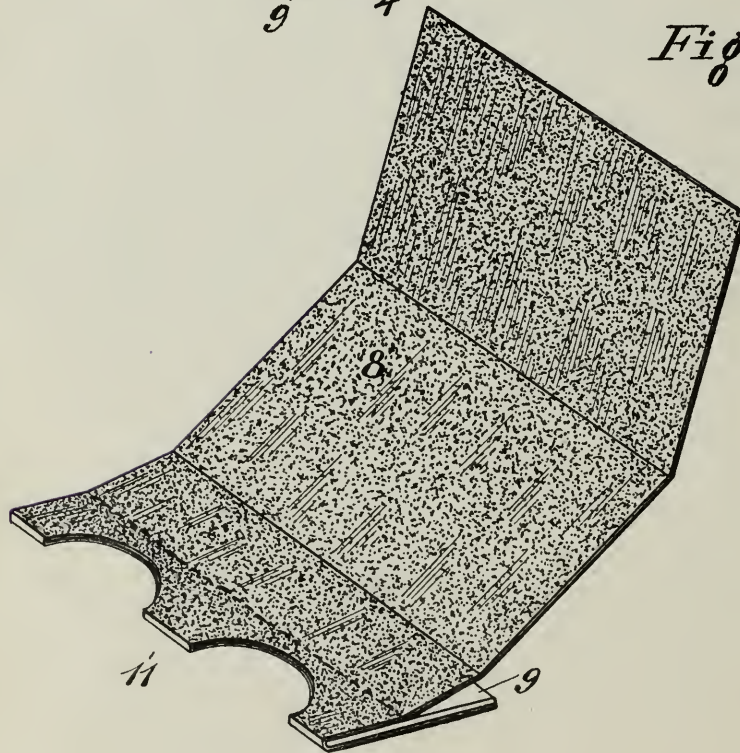


Fig. 2.



WITNESSES

*E. Petersen*  
*C. A. Penfield*

INVENTOR  
John Kitchen, Jr.

BY *Geo. H. Strong*  
ATTORNEY



# UNITED STATES PATENT OFFICE.

JOHN KITCHEN, JR., OF SAN FRANCISCO, CALIFORNIA.

## MANIFOLDING-BOOK.

No. 911,597.

Specification of Letters Patent.

Patented Feb. 9, 1909.

Application filed July 20, 1908. Serial No. 444,350.

*To all whom it may concern:*

Be it known that I, JOHN KITCHEN, Jr., citizen of the United States, residing at the city and county of San Francisco and State of California, have invented new and useful Improvements in Manifolded-Books, of which the following is a specification.

My invention relates to manifolded books, and pertains especially to a shipping receipt book.

Shipping receipt books are made up either in duplicate or triplicate form, the leaves being foldable one or more times upon themselves, and interfoldable with a carbon-sheet; there being two or more of these carbon-sheets disposed at intervals through the book. Usually one carbon will serve for the several sheets of a section of the book. By that time the carbon is worn out, and the next carbon being exposed will in turn serve for the succeeding section of sheets; each underneath carbon being protected by a stiff backing-sheet.

Where the carbons are bound into the book, objection is often made that the carbons become worn out before the section for which this carbon is designed to serve are used up; and if a loose carbon is used considerable difficulty is experienced in keeping it in place, and furthermore, it smudges up the leaves by frequent insertions and removals.

I have devised a book in which the carbons are made up separately from the book and are readily insertible into the book after the latter is bound up, and, moreover, they are held firmly in place just as though they had been bound in the book originally. In my book, also, I provide a form of stop-card, in which a single stop-card serves for all the carbons in the book.

The invention consists of the parts and the construction and combination of parts as hereinafter more fully described and claimed, having reference to the accompanying drawings, in which—

Figure 1 is a perspective of the book. Fig. 2 is a perspective of the carbon.

A represents a record-sheet of any suitable size, and foldable one or more times upon itself, according to whether a duplicate, triplicate, or other multiple record is to be made. As here shown, the sheet is made for triplicate purposes and is transversely perforated along lines 2—3, and is connected to its stub 4 along the line of perforations 5.

Any appropriate form of printing or notation may be put upon the several sections of the record-sheet A. These record-sheets are all bound together at the stubs by suitable means, as the staples 6, and if desired, the pad is notched at one side, as shown at 7, in line with the stub perforations 5, so as to enable the sheets to be easily torn off. In conjunction with this pad I use a carbon which is made up entirely separate from the pad and is afterwards inserted therein, as will shortly be explained. The length of this carbon is only a part of the total length of the record-sheet, so as to enable the record-sheet to be folded one or more times upon itself, and interfolded with the carbon, so as to produce a duplicate or triplicate record, according to whether the record-sheet A is a duplicate or triplicate sheet. In a triplicate system, as here shown, the carbon, which is double-faced, is two-thirds the length of the record-sheet, so that the outer section of the record-sheet may be folded first over the carbon, and then this folded end of the record-sheet will be overfolded with the carbon, in a manner well known in the art. The novelty of this part of my invention resides in the manner of inserting the carbon into and attaching it to the pad, whereby I am enabled to insert any number of carbons anywhere in the pad after the latter is made up. One end of the carbon is secured to a strip of stiff cardboard 9, or equivalent material, which is so fashioned that it can be pushed in underneath the cover 10 and between or on either side of the staples 6. I prefer to use a thin stiff cardboard because it is cheap and serves the purpose and can easily be slipped into place, and holds its position in the pad. The carbon may be attached to the strip 9 in any suitable way. As here shown, it is folded over the strip 9 and is then stitched through the strip about half way between the back and front edges of the latter, so as to give a suitable fingerhold underneath the carbon to enable the strip to be pushed into the stub of the book and between the staples. This strip is notched along its back edge to form one or more points 11 which engage between or straddle the staples 6, or equivalent securing means by which the stub 4 is bound together. The way these books are made up there is always room enough between the staples to allow the strip 9 to be pushed in, and the pressure on the points 11 of the stub strip

after the latter has been thus inserted will hold the carbon permanently in position. Whenever the carbon is worn out it is torn off and thrown away, and its strip removed and thrown away and a fresh one inserted.

In order to give a firm backing for the hand in writing and support the pencil point, so as to make a clear carbon copy, and prevent copying by the underneath carbons, I employ a stop-card 12 which is flexibly connected to the back of the cover 10. This stop-card is at the end of the pad opposite to the stub end 4, and is foldable over on to the pad towards the stub and adapted to lie on the pad and beneath an interfolded record-sheet and its carbon and form a writing support when the record is to be made. It will be observed that this stop-card 12 is not bound into the pad, but is entirely independent thereof, being carried by the cover; and a single stop-card serves for the entire pad. It is also practically the same length as the record-sheet.

Having thus described my invention, what

I claim and desire to secure by Letters Patent is—

A manifolding book comprising a pad of leaves each leaf having a stub all the stubs bound together, the leaves being detachably connected to their stubs along weakened lines, a carbon sheet, a relatively stiff strip to which said sheet is secured, which strip is insertible between the stubs of adjacent leaves, said strip having the carbon sheet secured to it between its front and back edges with the free front edge of said strip forming a finger hold to enable the strip to be grasped without contact with the sheet in inserting and removing the strip and sheet into and from the book.

In testimony whereof I have hereunto set my hand in presence of two subscribing witnesses.

JOHN KITCHEN, JR.

Witnesses:

CHARLES A. PENFIELD,  
HARRY J. LASK.